

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 5-4-3 as follows:

6 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

7 Sec. 5-4-3. Specimens; genetic marker groups.

8 (a) Any person convicted of, ~~found guilty under the~~
9 ~~Juvenile Court Act of 1987 for, or who received a disposition~~
10 ~~of court supervision for,~~ a qualifying offense or attempt of a
11 qualifying offense, convicted ~~or found guilty~~ of any offense
12 classified as a felony under Illinois law, convicted ~~or found~~
13 ~~guilty~~ of any offense requiring registration under the Sex
14 Offender Registration Act, ~~found guilty or given supervision~~
15 ~~for any offense classified as a felony under the Juvenile~~
16 ~~Court Act of 1987, convicted or found guilty of, under the~~
17 ~~Juvenile Court Act of 1987, any offense requiring registration~~
18 ~~under the Sex Offender Registration Act,~~ or institutionalized
19 as a sexually dangerous person under the Sexually Dangerous
20 Persons Act, or committed as a sexually violent person under
21 the Sexually Violent Persons Commitment Act shall, regardless
22 of the sentence or disposition imposed, be required to submit
23 specimens of blood, saliva, or tissue to the Illinois State

1 Police in accordance with the provisions of this Section,
2 provided such person is:

3 (1) convicted of a qualifying offense or attempt of a
4 qualifying offense on or after July 1, 1990 and sentenced
5 to a term of imprisonment, periodic imprisonment, fine,
6 probation, conditional discharge or any other form of
7 sentence, or given a disposition of court supervision for
8 the offense;

9 (1.5) (blank) ~~found guilty or given supervision under~~
10 ~~the Juvenile Court Act of 1987 for a qualifying offense or~~
11 ~~attempt of a qualifying offense on or after January 1,~~
12 ~~1997;~~

13 (2) ordered institutionalized as a sexually dangerous
14 person on or after July 1, 1990;

15 (3) convicted of a qualifying offense or attempt of a
16 qualifying offense before July 1, 1990 and is presently
17 confined as a result of such conviction in any State
18 correctional facility or county jail or is presently
19 serving a sentence of probation, conditional discharge or
20 periodic imprisonment as a result of such conviction;

21 (3.5) convicted ~~or found guilty~~ of any offense
22 classified as a felony under Illinois law ~~or found guilty~~
23 ~~or given supervision for such an offense under the~~
24 ~~Juvenile Court Act of 1987 on or after August 22, 2002;~~

25 (4) presently institutionalized as a sexually
26 dangerous person or presently institutionalized as a

1 person found guilty but mentally ill of a sexual offense
2 or attempt to commit a sexual offense; or

3 (4.5) ordered committed as a sexually violent person
4 on or after the effective date of the Sexually Violent
5 Persons Commitment Act.

6 (a-1) Any person incarcerated in a facility of the
7 Illinois Department of Corrections ~~or the Illinois Department~~
8 ~~of Juvenile Justice~~ on or after August 22, 2002, whether for a
9 term of years, natural life, or a sentence of death, who has
10 not yet submitted a specimen of blood, saliva, or tissue shall
11 be required to submit a specimen of blood, saliva, or tissue
12 prior to his or her final discharge, or release on parole,
13 aftercare release, or mandatory supervised release, as a
14 condition of his or her parole, aftercare release, or
15 mandatory supervised release, or within 6 months from August
16 13, 2009 (the effective date of Public Act 96-426), whichever
17 is sooner. A person incarcerated on or after August 13, 2009
18 (the effective date of Public Act 96-426) shall be required to
19 submit a specimen within 45 days of incarceration, or prior to
20 his or her final discharge, or release on parole, aftercare
21 release, or mandatory supervised release, as a condition of
22 his or her parole, aftercare release, or mandatory supervised
23 release, whichever is sooner. These specimens shall be placed
24 into the State or national DNA database, to be used in
25 accordance with other provisions of this Section, by the
26 Illinois State Police.

1 (a-2) Any person sentenced to life imprisonment in a
2 facility of the Illinois Department of Corrections after the
3 effective date of this amendatory Act of the 94th General
4 Assembly or sentenced to death after the effective date of
5 this amendatory Act of the 94th General Assembly shall be
6 required to provide a specimen of blood, saliva, or tissue
7 within 45 days after sentencing or disposition at a collection
8 site designated by the Illinois State Police. Any person
9 serving a sentence of life imprisonment in a facility of the
10 Illinois Department of Corrections on the effective date of
11 this amendatory Act of the 94th General Assembly or any person
12 who is under a sentence of death on the effective date of this
13 amendatory Act of the 94th General Assembly shall be required
14 to provide a specimen of blood, saliva, or tissue upon request
15 at a collection site designated by the Illinois State Police.

16 (a-3) Any person seeking transfer to or residency in
17 Illinois under Sections 3-3-11.05 through 3-3-11.5 of this
18 Code, the Interstate Compact for Adult Offender Supervision,
19 or the Interstate Agreements on Sexually Dangerous Persons Act
20 shall be required to provide a specimen of blood, saliva, or
21 tissue within 45 days after transfer to or residency in
22 Illinois at a collection site designated by the Illinois State
23 Police.

24 (a-3.1) Any person required by an order of the court to
25 submit a DNA specimen shall be required to provide a specimen
26 of blood, saliva, or tissue within 45 days after the court

1 order at a collection site designated by the Illinois State
2 Police.

3 (a-3.2) On or after January 1, 2012 (the effective date of
4 Public Act 97-383), any person arrested for any of the
5 following offenses, after an indictment has been returned by a
6 grand jury, or following a hearing pursuant to Section 109-3
7 of the Code of Criminal Procedure of 1963 and a judge finds
8 there is probable cause to believe the arrestee has committed
9 one of the designated offenses, or an arrestee has waived a
10 preliminary hearing shall be required to provide a specimen of
11 blood, saliva, or tissue within 14 days after such indictment
12 or hearing at a collection site designated by the Illinois
13 State Police:

- 14 (A) first degree murder;
15 (B) home invasion;
16 (C) predatory criminal sexual assault of a child;
17 (D) aggravated criminal sexual assault; or
18 (E) criminal sexual assault.

19 (a-3.3) Any person required to register as a sex offender
20 under the Sex Offender Registration Act, regardless of the
21 date of conviction as set forth in subsection (c-5.2) shall be
22 required to provide a specimen of blood, saliva, or tissue
23 within the time period prescribed in subsection (c-5.2) at a
24 collection site designated by the Illinois State Police.

25 (a-5) Any person who was otherwise convicted of ~~or~~
26 ~~received a disposition of court supervision for any other~~

1 offense under the Criminal Code of 1961 or the Criminal Code of
2 2012 ~~or who was found guilty or given supervision for such a~~
3 ~~violation under the Juvenile Court Act of 1987,~~ may,
4 regardless of the sentence imposed, be required by an order of
5 the court to submit specimens of blood, saliva, or tissue to
6 the Illinois State Police in accordance with the provisions of
7 this Section.

8 (b) Any person required by paragraphs (a) (1), ~~(a) (1.5),~~
9 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,
10 saliva, or tissue shall provide specimens of blood, saliva, or
11 tissue within 45 days after sentencing or disposition at a
12 collection site designated by the Illinois State Police.

13 (c) Any person required by paragraphs (a) (3), (a) (4), and
14 (a) (4.5) to provide specimens of blood, saliva, or tissue
15 shall be required to provide such specimens prior to final
16 discharge or within 6 months from August 13, 2009 (the
17 effective date of Public Act 96-426), whichever is sooner.
18 These specimens shall be placed into the State or national DNA
19 database, to be used in accordance with other provisions of
20 this Act, by the Illinois State Police.

21 (c-5) Any person required by paragraph (a-3) to provide
22 specimens of blood, saliva, or tissue shall, where feasible,
23 be required to provide the specimens before being accepted for
24 conditioned residency in Illinois under the interstate compact
25 or agreement, but no later than 45 days after arrival in this
26 State.

1 (c-5.2) Unless it is determined that a registered sex
2 offender has previously submitted a specimen of blood, saliva,
3 or tissue that has been placed into the State DNA database, a
4 person registering as a sex offender shall be required to
5 submit a specimen at the time of his or her initial
6 registration pursuant to the Sex Offender Registration Act or,
7 for a person registered as a sex offender on or prior to
8 January 1, 2012 (the effective date of Public Act 97-383),
9 within one year of January 1, 2012 (the effective date of
10 Public Act 97-383) or at the time of his or her next required
11 registration.

12 (c-6) The Illinois State Police may determine which type
13 of specimen or specimens, blood, saliva, or tissue, is
14 acceptable for submission to the Division of Forensic Services
15 for analysis. The Illinois State Police may require the
16 submission of fingerprints from anyone required to give a
17 specimen under this Act.

18 (d) The Illinois State Police shall provide all equipment
19 and instructions necessary for the collection of blood
20 specimens. The collection of specimens shall be performed in a
21 medically approved manner. Only a physician authorized to
22 practice medicine, a registered nurse or other qualified
23 person trained in venipuncture may withdraw blood for the
24 purposes of this Act. The specimens shall thereafter be
25 forwarded to the Illinois State Police, Division of Forensic
26 Services, for analysis and categorizing into genetic marker

1 groupings.

2 (d-1) The Illinois State Police shall provide all
3 equipment and instructions necessary for the collection of
4 saliva specimens. The collection of saliva specimens shall be
5 performed in a medically approved manner. Only a person
6 trained in the instructions promulgated by the Illinois State
7 Police on collecting saliva may collect saliva for the
8 purposes of this Section. The specimens shall thereafter be
9 forwarded to the Illinois State Police, Division of Forensic
10 Services, for analysis and categorizing into genetic marker
11 groupings.

12 (d-2) The Illinois State Police shall provide all
13 equipment and instructions necessary for the collection of
14 tissue specimens. The collection of tissue specimens shall be
15 performed in a medically approved manner. Only a person
16 trained in the instructions promulgated by the Illinois State
17 Police on collecting tissue may collect tissue for the
18 purposes of this Section. The specimens shall thereafter be
19 forwarded to the Illinois State Police, Division of Forensic
20 Services, for analysis and categorizing into genetic marker
21 groupings.

22 (d-5) To the extent that funds are available, the Illinois
23 State Police shall contract with qualified personnel and
24 certified laboratories for the collection, analysis, and
25 categorization of known specimens, except as provided in
26 subsection (n) of this Section.

1 (d-6) Agencies designated by the Illinois State Police and
2 the Illinois State Police may contract with third parties to
3 provide for the collection or analysis of DNA, or both, of an
4 offender's blood, saliva, and tissue specimens, except as
5 provided in subsection (n) of this Section.

6 (e) The genetic marker groupings shall be maintained by
7 the Illinois State Police, Division of Forensic Services.

8 (f) The genetic marker grouping analysis information
9 obtained pursuant to this Act shall be confidential and shall
10 be released only to peace officers of the United States, of
11 other states or territories, of the insular possessions of the
12 United States, of foreign countries duly authorized to receive
13 the same, to all peace officers of the State of Illinois and to
14 all prosecutorial agencies, and to defense counsel as provided
15 by Section 116-5 of the Code of Criminal Procedure of 1963. The
16 genetic marker grouping analysis information obtained pursuant
17 to this Act shall be used only for (i) valid law enforcement
18 identification purposes and as required by the Federal Bureau
19 of Investigation for participation in the National DNA
20 database, (ii) technology validation purposes, (iii) a
21 population statistics database, (iv) quality assurance
22 purposes if personally identifying information is removed, (v)
23 assisting in the defense of the criminally accused pursuant to
24 Section 116-5 of the Code of Criminal Procedure of 1963, or
25 (vi) identifying and assisting in the prosecution of a person
26 who is suspected of committing a sexual assault as defined in

1 Section 1a of the Sexual Assault Survivors Emergency Treatment
2 Act. Notwithstanding any other statutory provision to the
3 contrary, all information obtained under this Section shall be
4 maintained in a single State data base, which may be uploaded
5 into a national database, and which information may be subject
6 to expungement only as set forth in subsection (f-1).

7 (f-1) Upon receipt of notification of a reversal of a
8 conviction based on actual innocence, or of the granting of a
9 pardon pursuant to Section 12 of Article V of the Illinois
10 Constitution, if that pardon document specifically states that
11 the reason for the pardon is the actual innocence of an
12 individual whose DNA record has been stored in the State or
13 national DNA identification index in accordance with this
14 Section by the Illinois State Police, the DNA record shall be
15 expunged from the DNA identification index, and the Department
16 shall by rule prescribe procedures to ensure that the record
17 and any specimens, analyses, or other documents relating to
18 such record, whether in the possession of the Department or
19 any law enforcement or police agency, or any forensic DNA
20 laboratory, including any duplicates or copies thereof, are
21 destroyed and a letter is sent to the court verifying the
22 expungement is completed. For specimens required to be
23 collected prior to conviction, unless the individual has other
24 charges or convictions that require submission of a specimen,
25 the DNA record for an individual shall be expunged from the DNA
26 identification databases and the specimen destroyed upon

1 receipt of a certified copy of a final court order for each
2 charge against an individual in which the charge has been
3 dismissed, resulted in acquittal, or that the charge was not
4 filed within the applicable time period. The Department shall
5 by rule prescribe procedures to ensure that the record and any
6 specimens in the possession or control of the Department are
7 destroyed and a letter is sent to the court verifying the
8 expungement is completed.

9 (f-5) Any person who intentionally uses genetic marker
10 grouping analysis information, or any other information
11 derived from a DNA specimen, beyond the authorized uses as
12 provided under this Section, or any other Illinois law, is
13 guilty of a Class 4 felony, and shall be subject to a fine of
14 not less than \$5,000.

15 (f-6) The Illinois State Police may contract with third
16 parties for the purposes of implementing this amendatory Act
17 of the 93rd General Assembly, except as provided in subsection
18 (n) of this Section. Any other party contracting to carry out
19 the functions of this Section shall be subject to the same
20 restrictions and requirements of this Section insofar as
21 applicable, as the Illinois State Police, and to any
22 additional restrictions imposed by the Illinois State Police.

23 (g) For the purposes of this Section, "qualifying offense"
24 means any of the following:

- 25 (1) any violation or inchoate violation of Section
26 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or

1 12-16 of the Criminal Code of 1961 or the Criminal Code of
2 2012;

3 (1.1) any violation or inchoate violation of Section
4 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
5 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of
6 1961 or the Criminal Code of 2012 for which persons are
7 convicted on or after July 1, 2001;

8 (2) any former statute of this State which defined a
9 felony sexual offense;

10 (3) (blank);

11 (4) any inchoate violation of Section 9-3.1, 9-3.4,
12 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or
13 the Criminal Code of 2012; or

14 (5) any violation or inchoate violation of Article 29D
15 of the Criminal Code of 1961 or the Criminal Code of 2012.

16 (g-5) (Blank).

17 (h) The Illinois State Police shall be the State central
18 repository for all genetic marker grouping analysis
19 information obtained pursuant to this Act. The Illinois State
20 Police may promulgate rules for the form and manner of the
21 collection of blood, saliva, or tissue specimens and other
22 procedures for the operation of this Act. The provisions of
23 the Administrative Review Law shall apply to all actions taken
24 under the rules so promulgated.

25 (i)(1) A person required to provide a blood, saliva, or
26 tissue specimen shall cooperate with the collection of the

1 specimen and any deliberate act by that person intended to
2 impede, delay or stop the collection of the blood, saliva, or
3 tissue specimen is a Class 4 felony.

4 (2) In the event that a person's DNA specimen is not
5 adequate for any reason, the person shall provide another DNA
6 specimen for analysis. Duly authorized law enforcement and
7 corrections personnel may employ reasonable force in cases in
8 which an individual refuses to provide a DNA specimen required
9 under this Act.

10 (j) (Blank).

11 (k) All analysis and categorization assessments provided
12 under the Criminal and Traffic Assessments Act to the State
13 Crime Laboratory Fund shall be regulated as follows:

14 (1) (Blank).

15 (2) (Blank).

16 (3) Moneys deposited into the State Crime Laboratory
17 Fund shall be used by Illinois State Police crime
18 laboratories as designated by the Director of the Illinois
19 State Police. These funds shall be in addition to any
20 allocations made pursuant to existing laws and shall be
21 designated for the exclusive use of State crime
22 laboratories. These uses may include, but are not limited
23 to, the following:

24 (A) Costs incurred in providing analysis and
25 genetic marker categorization as required by
26 subsection (d).

1 (B) Costs incurred in maintaining genetic marker
2 groupings as required by subsection (e).

3 (C) Costs incurred in the purchase and maintenance
4 of equipment for use in performing analyses.

5 (D) Costs incurred in continuing research and
6 development of new techniques for analysis and genetic
7 marker categorization.

8 (E) Costs incurred in continuing education,
9 training, and professional development of forensic
10 scientists regularly employed by these laboratories.

11 (1) The failure of a person to provide a specimen, or of
12 any person or agency to collect a specimen, shall in no way
13 alter the obligation of the person to submit such specimen, or
14 the authority of the Illinois State Police or persons
15 designated by the Illinois State Police to collect the
16 specimen, or the authority of the Illinois State Police to
17 accept, analyze and maintain the specimen or to maintain or
18 upload results of genetic marker grouping analysis information
19 into a State or national database.

20 (m) If any provision of this amendatory Act of the 93rd
21 General Assembly is held unconstitutional or otherwise
22 invalid, the remainder of this amendatory Act of the 93rd
23 General Assembly is not affected.

24 (n) Neither the Illinois State Police, the Division of
25 Forensic Services, nor any laboratory of the Division of
26 Forensic Services may contract out forensic testing for the

1 purpose of an active investigation or a matter pending before
2 a court of competent jurisdiction without the written consent
3 of the prosecuting agency. For the purposes of this subsection
4 (n), "forensic testing" includes the analysis of physical
5 evidence in an investigation or other proceeding for the
6 prosecution of a violation of the Criminal Code of 1961 or the
7 Criminal Code of 2012 or for matters adjudicated under the
8 Juvenile Court Act of 1987, and includes the use of forensic
9 databases and databanks, including DNA, firearm, and
10 fingerprint databases, and expert testimony.

11 (o) Mistake does not invalidate a database match. The
12 detention, arrest, or conviction of a person based upon a
13 database match or database information is not invalidated if
14 it is determined that the specimen was obtained or placed in
15 the database by mistake.

16 (p) This Section may be referred to as the Illinois DNA
17 Database Law of 2011.

18 (Source: P.A. 102-505, eff. 8-20-21; 102-538, eff. 8-20-21.)