

1 AN ACT in relation to 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
5 by 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. Persons convicted of, or found delinquent
8 for, certain ~~qualifying~~ offenses or institutionalized as
9 sexually dangerous; ~~blood~~ specimens; genetic marker groups.

10 (a) Any person convicted of, found guilty under the
11 Juvenile Court Act of 1987 for, or who received a disposition
12 of court supervision for, a qualifying offense or attempt of
13 a qualifying offense, convicted or found guilty of any
14 offense classified as a felony under Illinois law, found
15 guilty or given supervision for any offense classified as a
16 felony under the Juvenile Court Act of 1987, or
17 institutionalized as a sexually dangerous person under the
18 Sexually Dangerous Persons Act, or committed as a sexually
19 violent person under the Sexually Violent Persons Commitment
20 Act shall, regardless of the sentence or disposition imposed,
21 be required to submit specimens of blood, saliva, or tissue
22 to the Illinois Department of State Police in accordance with
23 the provisions of this Section, provided such person is:

24 (1) convicted of a qualifying offense or attempt of
25 a qualifying offense on or after the effective date of
26 this amendatory Act of 1989, and sentenced to a term of
27 imprisonment, periodic imprisonment, fine, probation,
28 conditional discharge or any other form of sentence, or
29 given a disposition of court supervision for the offense,
30 or

31 (1.5) found guilty or given supervision under the

1 Juvenile Court Act of 1987 for a qualifying offense or
2 attempt of a qualifying offense on or after the effective
3 date of this amendatory Act of 1996, or

4 (2) ordered institutionalized as a sexually
5 dangerous person on or after the effective date of this
6 amendatory Act of 1989, or

7 (3) convicted of a qualifying offense or attempt of
8 a qualifying offense before the effective date of this
9 amendatory Act of 1989 and is presently confined as a
10 result of such conviction in any State correctional
11 facility or county jail or is presently serving a
12 sentence of probation, conditional discharge or periodic
13 imprisonment as a result of such conviction, or

14 (3.5) convicted or found guilty of any offense
15 classified as a felony under Illinois law or found guilty
16 or given supervision for such an offense under the
17 Juvenile Court Act of 1987 on or after the effective date
18 of this amendatory Act of the 92nd General Assembly, or

19 (4) presently institutionalized as a sexually
20 dangerous person or presently institutionalized as a
21 person found guilty but mentally ill of a sexual offense
22 or attempt to commit a sexual offense; or

23 (4.5) ordered committed as a sexually violent
24 person on or after the effective date of the Sexually
25 Violent Persons Commitment Act; or

26 (5) seeking transfer to or residency in Illinois
27 under Sections 3-3-11 through 3-3-11.5 of the Unified
28 Code of Corrections (Interstate Compact for the
29 Supervision of Parolees and Probationers) or the
30 Interstate Agreements on Sexually Dangerous Persons Act.

31 Notwithstanding other provisions of this Section, any
32 person incarcerated in a facility of the Illinois Department
33 of Corrections on or after the effective date of this
34 amendatory Act of the 92nd General Assembly shall be required

1 to submit a specimen of blood, saliva, or tissue prior to his
2 or her release on parole or mandatory supervised release, as
3 a condition of his or her parole or mandatory supervised
4 release.

5 (a-5) Any person who was otherwise convicted of or
6 received a disposition of court supervision for any other
7 offense under the Criminal Code of 1961 ~~or any offense~~
8 ~~classified as a felony under Illinois law~~ or who was found
9 guilty or given supervision for such a violation under the
10 Juvenile Court Act of 1987, may, regardless of the sentence
11 imposed, be required by an order of the court to submit
12 specimens of blood, saliva, or tissue to the Illinois
13 Department of State Police in accordance with the provisions
14 of this Section.

15 (b) Any person required by paragraphs (a)(1), (a)(1.5),
16 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
17 saliva, or tissue shall provide specimens of blood, saliva,
18 or tissue within 45 days after sentencing or disposition at a
19 collection site designated by the Illinois Department of
20 State Police.

21 (c) Any person required by paragraphs (a)(3), (a)(4),
22 and (a)(4.5) to provide specimens of blood, saliva, or tissue
23 shall be required to provide such samples prior to final
24 discharge, parole, or release at a collection site designated
25 by the Illinois Department of State Police.

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

32 (c-6) The Illinois Department of State Police may
33 determine which type of specimen or specimens, blood, saliva,
34 or tissue, is acceptable for submission to the Division of

1 Forensic Services for analysis.

2 (d) The Illinois Department of State Police shall
3 provide all equipment and instructions necessary for the
4 collection of blood samples. The collection of samples shall
5 be performed in a medically approved manner. Only a
6 physician authorized to practice medicine, a registered nurse
7 or other qualified person trained in venipuncture may
8 withdraw blood for the purposes of this Act. The samples
9 shall thereafter be forwarded to the Illinois Department of
10 State Police, Division of Forensic Services, for analysis and
11 categorizing into genetic marker groupings.

12 (d-1) The Illinois Department of State Police shall
13 provide all equipment and instructions necessary for the
14 collection of saliva samples. The collection of saliva
15 samples shall be performed in a medically approved manner.
16 Only a person trained in the instructions promulgated by the
17 Illinois State Police on collecting saliva may collect saliva
18 for the purposes of this Section. The samples shall
19 thereafter be forwarded to the Illinois Department of State
20 Police, Division of Forensic Services, for analysis and
21 categorizing into genetic marker groupings.

22 (d-2) The Illinois Department of State Police shall
23 provide all equipment and instructions necessary for the
24 collection of tissue samples. The collection of tissue
25 samples shall be performed in a medically approved manner.
26 Only a person trained in the instructions promulgated by the
27 Illinois State Police on collecting tissue may collect tissue
28 for the purposes of this Section. The samples shall
29 thereafter be forwarded to the Illinois Department of State
30 Police, Division of Forensic Services, for analysis and
31 categorizing into genetic marker groupings.

32 (e) The genetic marker groupings shall be maintained by
33 the Illinois Department of State Police, Division of Forensic
34 Services.

1 (f) The genetic marker grouping analysis information
2 obtained pursuant to this Act shall be confidential and shall
3 be released only to peace officers of the United States, of
4 other states or territories, of the insular possessions of
5 the United States, of foreign countries duly authorized to
6 receive the same, to all peace officers of the State of
7 Illinois and to all prosecutorial agencies. The genetic
8 marker grouping analysis information obtained pursuant to
9 this Act shall be used only for (i) valid law enforcement
10 identification purposes and as required by the Federal Bureau
11 of Investigation for participation in the National DNA
12 database or (ii) technology validation purposes.
13 Notwithstanding any other statutory provision to the
14 contrary, all information obtained under this Section shall
15 be maintained in a single State data base, which may be
16 uploaded into a national database, and which information may
17 not be subject to expungement only as set forth in subsection
18 (f-1).

19 (f-1) Upon receipt of notification of a reversal of a
20 conviction based on actual innocence, or of the granting of a
21 pardon pursuant to Section 12 of Article V of the Illinois
22 Constitution, if that pardon document specifically states
23 that the reason for the pardon is the actual innocence of an
24 individual whose DNA record has been stored in the State or
25 national DNA identification index in accordance with this
26 Section by the Illinois Department of State Police, the DNA
27 record shall be expunged from the DNA identification index,
28 and the Department shall by rule prescribe procedures to
29 ensure that the record and any samples, analyses, or other
30 documents relating to such record, whether in the possession
31 of the Department or any law enforcement or police agency, or
32 any forensic DNA laboratory, including any duplicates or
33 copies thereof, are destroyed and a letter is sent to the
34 court verifying the expungement is completed.

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

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

9 (1) Any violation or inchoate violation of Section
 10 11-6, 11-9.1, 11-11, ~~11-15.1, 11-17.1~~ 11-18.1, ~~11-19.1,~~
 11 ~~11-19.2, 11-20.1, 12-13, 12-14, 12-14.1~~ 12-15, or 12-16,
 12 ~~or 12-33~~ of the Criminal Code of 1961, or

13 (1.1) Any violation or inchoate violation of
 14 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,
 15 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961
 16 for which persons are convicted on or after July 1, 2001,
 17 or

18 (2) Any former statute of this State which defined
 19 a felony sexual offense, or

20 (3) (Blank), or Any violation of paragraph (1) of
 21 subsection (b) of Section 10-5 of the Criminal Code of
 22 1961 when the sentencing court, upon a motion by the
 23 State's Attorney or Attorney General, makes a finding
 24 that the child luring involved an intent to commit sexual
 25 penetration or sexual conduct as defined in Section 12-12
 26 of the Criminal Code of 1961, or

27 (4) Any violation or inchoate violation of Section
 28 9-3.1, 11-9.3, ~~12-3.3, 12-4.2, 12-4.3~~ 12-7.3, or 12-7.4,
 29 ~~18-5, 19-3, 20-1.1~~ or 20-5-5 of the Criminal Code of
 30 1961.

31 (g-5) (Blank). The Department of State Police is not
 32 required to provide equipment to collect or to accept or
 33 process blood specimens from individuals convicted of any
 34 offense listed in paragraph (1.1) or (4) of subsection (g),

1 until acquisition of the resources necessary to process such
2 blood specimens, or in the case of paragraph (1.1) of
3 subsection (g) until July 1, 2003, whichever is earlier.

4 Upon acquisition of necessary resources, including an
5 appropriation for the purpose of implementing this amendatory
6 Act of the 91st General Assembly, but in the case of
7 paragraph (1.1) of subsection (g) no later than July 1, 2003,
8 the Department of State Police shall notify the Department of
9 Corrections, the Administrative Office of the Illinois
10 Courts, and any other entity deemed appropriate by the
11 Department of State Police, to begin blood specimen
12 collection from individuals convicted of offenses enumerated
13 in paragraphs (1.1) and (4) of subsection (g) that the
14 Department is prepared to provide collection equipment and
15 receive and process blood specimens from individuals
16 convicted of offenses enumerated in paragraph (1.1) of
17 subsection (g).

18 Until the Department of State Police provides
19 notification, designated collection agencies are not required
20 to collect blood specimen from individuals convicted of
21 offenses enumerated in paragraphs (1.1) and (4) of subsection
22 (g).

23 (h) The Illinois Department of State Police shall be the
24 State central repository for all genetic marker grouping
25 analysis information obtained pursuant to this Act. The
26 Illinois Department of State Police may promulgate rules for
27 the form and manner of the collection of blood, saliva, or
28 tissue samples and other procedures for the operation of this
29 Act. The provisions of the Administrative Review Law shall
30 apply to all actions taken under the rules so promulgated.

31 (i) A person required to provide a blood, saliva, or
32 tissue specimen shall cooperate with the collection of the
33 specimen and any deliberate act by that person intended to
34 impede, delay or stop the collection of the blood, saliva, or

1 tissue specimen is a Class A misdemeanor.

2 (j) Any person required by subsection (a) to submit
3 specimens of blood, saliva, or tissue to the Illinois
4 Department of State Police for analysis and categorization
5 into genetic marker grouping, in addition to any other
6 disposition, penalty, or fine imposed, shall pay an analysis
7 fee of \$200 \$500. If the analysis fee is not paid at the
8 time of sentencing, the court shall establish a fee schedule
9 by which the entire amount of the analysis fee shall be paid
10 in full, such schedule not to exceed 24 months from the time
11 of conviction. The inability to pay this analysis fee shall
12 not be the sole ground to incarcerate the person. Upon
13 verified-petition--of--the--person,--the--court--may--suspend
14 payment-of-all-or-part-of-the-fee-if-it-finds-that-the-person
15 does-not-have-the-ability-to-pay-the-fee.

16 (k) All analysis and categorization fees provided for by
17 subsection (j) shall be regulated as follows:

18 (1) The State Offender DNA Identification System
19 Fund is hereby created as a special fund in the State
20 Treasury.

21 (2) All fees shall be collected by the clerk of the
22 court and forwarded to the State Offender DNA
23 Identification System Fund for deposit. The clerk of the
24 circuit court may retain the amount of \$10 from each
25 collected analysis fee to offset administrative costs
26 incurred in carrying out the clerk's responsibilities
27 under this Section.

28 (3) Fees deposited into the State Offender DNA
29 Identification System Fund shall be used by Illinois
30 State Police crime laboratories as designated by the
31 Director of State Police. These funds shall be in
32 addition to any allocations made pursuant to existing
33 laws and shall be designated for the exclusive use of
34 State crime laboratories. These uses may include, but

1 are not limited to, the following:

2 (A) Costs incurred in providing analysis and
3 genetic marker categorization as required by
4 subsection (d).

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

7 (C) Costs incurred in the purchase and
8 maintenance of equipment for use in performing
9 analyses.

10 (D) Costs incurred in continuing research and
11 development of new techniques for analysis and
12 genetic marker categorization.

13 (E) Costs incurred in continuing education,
14 training, and professional development of forensic
15 scientists regularly employed by these laboratories.

16 (1) The failure of a person to provide a specimen, or of
17 any person or agency to collect a specimen, within the 45 day
18 period shall in no way alter the obligation of the person to
19 submit such specimen, or the authority of the Illinois
20 Department of State Police or persons designated by the
21 Department to collect the specimen, or the authority of the
22 Illinois Department of State Police to accept, analyze and
23 maintain the specimen or to maintain or upload results of
24 genetic marker grouping analysis information into a State or
25 national database.

26 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
27 92-40, eff. 6-29-01.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.