

1 AMENDMENT TO HOUSE BILL 573

2 AMENDMENT NO. _____. Amend House Bill 573 as follows:
3 by replacing everything after the enacting clause with the
4 following:

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

7 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

8 Sec. 5-4-3. Persons convicted of, or found delinquent
9 for, certain offenses or institutionalized as sexually
10 dangerous; specimens; genetic marker groups.

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

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

3 (1) convicted of a qualifying offense or attempt of
4 a qualifying offense on or after July 1, 1990 the
5 ~~effective--date--of--this--amendatory--Act--of--1989~~, and
6 sentenced to a term of imprisonment, periodic
7 imprisonment, fine, probation, conditional discharge or
8 any other form of sentence, or given a disposition of
9 court supervision for the offense;~~;~~

10 (1.5) found guilty or given supervision under the
11 Juvenile Court Act of 1987 for a qualifying offense or
12 attempt of a qualifying offense on or after January 1,
13 1997; ~~the-effective-date-of-this-amendatory-Act-of-1996~~,
14 ~~or~~

15 (2) ordered institutionalized as a sexually
16 dangerous person on or after July 1, 1990; ~~the--effective~~
17 ~~date-of-this-amendatory-Act-of-1989~~; ~~or~~

18 (3) convicted of a qualifying offense or attempt of
19 a qualifying offense before July 1, 1990 ~~the-effective~~
20 ~~date-of-this-amendatory-Act--of--1989~~ and is presently
21 confined as a result of such conviction in any State
22 correctional facility or county jail or is presently
23 serving a sentence of probation, conditional discharge or
24 periodic imprisonment as a result of such conviction;~~;~~

25 (3.5) convicted or found guilty of any offense
26 classified as a felony under Illinois law or found guilty
27 or given supervision for such an offense under the
28 Juvenile Court Act of 1987 on or after August 22, 2002;
29 ~~the-effective-date--of--this--amendatory-Act--of--the--92nd~~
30 ~~General-Assembly~~; ~~or~~

31 (4) presently institutionalized as a sexually
32 dangerous person or presently institutionalized as a
33 person found guilty but mentally ill of a sexual offense
34 or attempt to commit a sexual offense; ~~or~~

1 (4.5) ordered committed as a sexually violent
2 person on or after the effective date of the Sexually
3 Violent Persons Commitment Act; or

4 (5) seeking transfer to or residency in Illinois
5 under Sections 3-3-11.05 through 3-3-11.5 of the Unified
6 Code of Corrections and the Interstate Compact for Adult
7 Offender Supervision or the Interstate Agreements on
8 Sexually Dangerous Persons Act.

9 Notwithstanding other provisions of this Section, any
10 person incarcerated in a facility of the Illinois Department
11 of Corrections on or after August 22, 2002 ~~the-effective-date~~
12 ~~of-this-amendatory-Act-of-the-92nd-General-Assembly~~ shall be
13 required to submit a specimen of blood, saliva, or tissue
14 prior to his or her release on parole or mandatory supervised
15 release, as a condition of his or her parole or mandatory
16 supervised release.

17 (a-5) Any person who was otherwise convicted of or
18 received a disposition of court supervision for any other
19 offense under the Criminal Code of 1961 or who was found
20 guilty or given supervision for such a violation under the
21 Juvenile Court Act of 1987, may, regardless of the sentence
22 imposed, be required by an order of the court to submit
23 specimens of blood, saliva, or tissue to the Illinois
24 Department of State Police in accordance with the provisions
25 of this Section.

26 (b) Any person required by paragraphs (a)(1), (a)(1.5),
27 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
28 saliva, or tissue shall provide specimens of blood, saliva,
29 or tissue within 45 days after sentencing or disposition at a
30 collection site designated by the Illinois Department of
31 State Police.

32 (c) Any person required by paragraphs (a)(3), (a)(4),
33 and (a)(4.5) to provide specimens of blood, saliva, or tissue
34 shall be required to provide such samples prior to final

1 discharge, parole, or release at a collection site designated
2 by the Illinois Department of State Police.

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

9 (c-6) The Illinois Department of State Police may
10 determine which type of specimen or specimens, blood, saliva,
11 or tissue, is acceptable for submission to the Division of
12 Forensic Services for analysis.

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

23 (d-1) The Illinois Department of State Police shall
24 provide all equipment and instructions necessary for the
25 collection of saliva samples. The collection of saliva
26 samples shall be performed in a medically approved manner.
27 Only a person trained in the instructions promulgated by the
28 Illinois State Police on collecting saliva may collect saliva
29 for the purposes of this Section. The samples shall
30 thereafter be forwarded to the Illinois Department of State
31 Police, Division of Forensic Services, for analysis and
32 categorizing into genetic marker groupings.

33 (d-2) The Illinois Department of State Police shall
34 provide all equipment and instructions necessary for the

1 collection of tissue samples. The collection of tissue
2 samples shall be performed in a medically approved manner.
3 Only a person trained in the instructions promulgated by the
4 Illinois State Police on collecting tissue may collect tissue
5 for the purposes of this Section. The samples shall
6 thereafter be forwarded to the Illinois Department of State
7 Police, Division of Forensic Services, for analysis and
8 categorizing into genetic marker groupings.

9 (d-5) To the extent that funds are available, the
10 Illinois Department of State Police shall contract with
11 qualified personnel and certified laboratories for the
12 collection, analysis, and categorization of known samples.

13 (d-6) Agencies designated by the Illinois Department of
14 State Police and the Illinois Department of State Police may
15 contract with third parties to provide for the collection or
16 analysis of DNA, or both, of an offender's blood, saliva, and
17 tissue samples.

18 (d-7) A person authorized to collect DNA samples may not
19 be civilly or criminally liable for the collection of a DNA
20 sample under this Act if the person performs his or her
21 duties in good faith and in reasonable manner according to
22 generally accepted medical or other professional practices.

23 (e) The genetic marker groupings shall be maintained by
24 the Illinois Department of State Police, Division of Forensic
25 Services.

26 (f) The genetic marker grouping analysis information
27 obtained pursuant to this Act shall be confidential and shall
28 be released only to peace officers of the United States, of
29 other states or territories, of the insular possessions of
30 the United States, of foreign countries duly authorized to
31 receive the same, to all peace officers of the State of
32 Illinois and to all prosecutorial agencies. The genetic
33 marker grouping analysis information obtained pursuant to
34 this Act shall be used only for (i) valid law enforcement

1 identification purposes and as required by the Federal Bureau
2 of Investigation for participation in the National DNA
3 database, or (ii) technology validation purposes, (iii) a
4 population statistics database, or (iv) quality assurance
5 purposes if personally identifying information is removed.
6 Notwithstanding any other statutory provision to the
7 contrary, all information obtained under this Section shall
8 be maintained in a single State data base, which may be
9 uploaded into a national database, and which information may
10 be subject to expungement only as set forth in subsection
11 (f-1).

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

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

34 (f-6) The Illinois Department of State Police may

1 contract with third parties for the purposes of implementing
 2 this amendatory Act of the 93rd General Assembly. Any other
 3 party contracting to carry out the functions of this Section
 4 shall be subject to the same restrictions and requirements of
 5 this Section insofar as applicable, as the Illinois
 6 Department of State Police, and to any additional
 7 restrictions imposed by the Illinois Department of State
 8 Police.

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

11 (1) any violation or inchoate violation of Section
 12 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
 13 Criminal Code of 1961;~~i7-er~~

14 (1.1) any violation or inchoate violation of
 15 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,
 16 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961
 17 for which persons are convicted on or after July 1,
 18 2001;~~i7-er~~

19 (2) any former statute of this State which defined
 20 a felony sexual offense;~~i7-er~~

21 (3) (blank);~~i7-er~~

22 (4) any inchoate violation of Section 9-3.1,
 23 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961;~~i7~~
 24 or

25 (5) any violation or inchoate violation of Article
 26 29D of the Criminal Code of 1961.

27 (g-5) (Blank).

28 (h) The Illinois Department of State Police shall be the
 29 State central repository for all genetic marker grouping
 30 analysis information obtained pursuant to this Act. The
 31 Illinois Department of State Police may promulgate rules for
 32 the form and manner of the collection of blood, saliva, or
 33 tissue samples and other procedures for the operation of this
 34 Act. The provisions of the Administrative Review Law shall

1 apply to all actions taken under the rules so promulgated.

2 (i)(1) A person required to provide a blood, saliva, or
3 tissue specimen shall cooperate with the collection of the
4 specimen and any deliberate act by that person intended to
5 impede, delay or stop the collection of the blood, saliva, or
6 tissue specimen is a Class A misdemeanor.

7 (2) In the event that a person's DNA sample is not
8 adequate for any reason, the person shall provide another DNA
9 sample for analysis. Duly authorized law enforcement and
10 corrections personnel may employ reasonable force in cases in
11 which an individual refuses to provide a DNA sample required
12 under this Act and those employees may not be civilly or
13 criminally liable for the use of that reasonable force.

14 (j) Any person required by subsection (a) to submit
15 specimens of blood, saliva, or tissue to the Illinois
16 Department of State Police for analysis and categorization
17 into genetic marker grouping, in addition to any other
18 disposition, penalty, or fine imposed, shall pay an analysis
19 fee of \$200. If the analysis fee is not paid at the time of
20 sentencing, the court shall establish a fee schedule by which
21 the entire amount of the analysis fee shall be paid in full,
22 such schedule not to exceed 24 months from the time of
23 conviction. The inability to pay this analysis fee shall not
24 be the sole ground to incarcerate the person.

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

27 (1) The State Offender DNA Identification System
28 Fund is hereby created as a special fund in the State
29 Treasury.

30 (2) All fees shall be collected by the clerk of the
31 court and forwarded to the State Offender DNA
32 Identification System Fund for deposit. The clerk of the
33 circuit court may retain the amount of \$10 from each
34 collected analysis fee to offset administrative costs

1 incurred in carrying out the clerk's responsibilities
2 under this Section.

3 (3) Fees deposited into the State Offender DNA
4 Identification System Fund shall be used by Illinois
5 State Police crime laboratories as designated by the
6 Director of State Police. These funds shall be in
7 addition to any allocations made pursuant to existing
8 laws and shall be designated for the exclusive use of
9 State crime laboratories. These uses may include, but
10 are not limited to, the following:

11 (A) Costs incurred in providing analysis and
12 genetic marker categorization as required by
13 subsection (d).

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

16 (C) Costs incurred in the purchase and
17 maintenance of equipment for use in performing
18 analyses.

19 (D) Costs incurred in continuing research and
20 development of new techniques for analysis and
21 genetic marker categorization.

22 (E) Costs incurred in continuing education,
23 training, and professional development of forensic
24 scientists regularly employed by these laboratories.

25 (1) The failure of a person to provide a specimen, or of
26 any person or agency to collect a specimen, within the 45 day
27 period shall in no way alter the obligation of the person to
28 submit such specimen, or the authority of the Illinois
29 Department of State Police or persons designated by the
30 Department to collect the specimen, or the authority of the
31 Illinois Department of State Police to accept, analyze and
32 maintain the specimen or to maintain or upload results of
33 genetic marker grouping analysis information into a State or
34 national database.

1 (m) The detention, arrest, or conviction of a person
2 based upon a database match or database information is not
3 invalidated if it is determined that the sample was obtained
4 or placed in the database by mistake.

5 (n) If any provision of this amendatory Act of the 93rd
6 General Assembly is held unconstitutional or otherwise
7 invalid, the remainder of this amendatory Act of the 93rd
8 General Assembly is not affected.

9 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
10 92-40, eff. 6-29-01; 92-571, eff. 6-26-02; 92-600, eff.
11 6-28-02; 92-829, eff. 8-22-02; 92-854, eff. 12-5-02; revised
12 1-20-03.)".