

1 AN ACT concerning corrections.

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. Persons convicted of, or found delinquent  
8 for, certain offenses or institutionalized as sexually  
9 dangerous; 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 July 1, 1990 the  
26 ~~effective--date--of--this--amendatory--Act--of--1989,~~ and  
27 sentenced to a term of imprisonment, periodic  
28 imprisonment, fine, probation, conditional discharge or  
29 any other form of sentence, or given a disposition of  
30 court supervision for the offense; ~~7-01~~

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 January 1,  
 3 1997; ~~the-effective-date-of-this-amendatory-Act-of-1996,~~  
 4 ~~or~~

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

8 (3) convicted of a qualifying offense or attempt of  
 9 a qualifying offense before July 1, 1990 ~~the-effective~~  
 10 ~~date-of-this-amendatory-Act--of--1989~~ and is presently  
 11 confined as a result of such conviction in any State  
 12 correctional facility or county jail or is presently  
 13 serving a sentence of probation, conditional discharge or  
 14 periodic imprisonment as a result of such conviction;~~i,~~ ~~or~~

15 (3.5) convicted or found guilty of any offense  
 16 classified as a felony under Illinois law or found guilty  
 17 or given supervision for such an offense under the  
 18 Juvenile Court Act of 1987 on or after August 22, 2002;  
 19 ~~the-effective-date--of-this-amendatory-Act--of--the--92nd~~  
 20 ~~General-Assembly,~~ ~~or~~

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

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

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

33 Notwithstanding other provisions of this Section, any  
 34 person incarcerated in a facility of the Illinois Department

1 of Corrections on or after August 22, 2002 ~~the-effective-date~~  
2 ~~of-this-amendatory-Act-of-the-92nd-General-Assembly~~ shall be  
3 required to submit a specimen of blood, saliva, or tissue  
4 prior to his or her final discharge or release on parole or  
5 mandatory supervised release, as a condition of his or her  
6 parole or mandatory supervised release.

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

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

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

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

33 (c-6) The Illinois Department of State Police may  
34 determine which type of specimen or specimens, blood, saliva,

1 or tissue, is acceptable for submission to the Division of  
2 Forensic Services for analysis.

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

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

23 (d-2) The Illinois Department of State Police shall  
24 provide all equipment and instructions necessary for the  
25 collection of tissue samples. The collection of tissue  
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 tissue may collect tissue  
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-5) To the extent that funds are available, the  
34 Illinois Department of State Police shall contract with

1 qualified personnel and certified laboratories for the  
2 collection, analysis, and categorization of known samples.

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

8 (e) The genetic marker groupings shall be maintained by  
9 the Illinois Department of State Police, Division of Forensic  
10 Services.

11 (f) The genetic marker grouping analysis information  
12 obtained pursuant to this Act shall be confidential and shall  
13 be released only to peace officers of the United States, of  
14 other states or territories, of the insular possessions of  
15 the United States, of foreign countries duly authorized to  
16 receive the same, to all peace officers of the State of  
17 Illinois and to all prosecutorial agencies. The genetic  
18 marker grouping analysis information obtained pursuant to  
19 this Act shall be used only for (i) valid law enforcement  
20 identification purposes and as required by the Federal Bureau  
21 of Investigation for participation in the National DNA  
22 database, ~~or~~ (ii) technology validation purposes, (iii) a  
23 population statistics database, or (iv) quality assurance  
24 purposes if personally identifying information is removed.

25 Notwithstanding any other statutory provision to the  
26 contrary, all information obtained under this Section shall  
27 be maintained in a single State data base, which may be  
28 uploaded into a national database, and which information may  
29 be subject to expungement only as set forth in subsection  
30 (f-1).

31 (f-1) Upon receipt of notification of a reversal of a  
32 conviction based on actual innocence, or of the granting of a  
33 pardon pursuant to Section 12 of Article V of the Illinois  
34 Constitution, if that pardon document specifically states

1 that the reason for the pardon is the actual innocence of an  
 2 individual whose DNA record has been stored in the State or  
 3 national DNA identification index in accordance with this  
 4 Section by the Illinois Department of State Police, the DNA  
 5 record shall be expunged from the DNA identification index,  
 6 and the Department shall by rule prescribe procedures to  
 7 ensure that the record and any samples, analyses, or other  
 8 documents relating to such record, whether in the possession  
 9 of the Department or any law enforcement or police agency, or  
 10 any forensic DNA laboratory, including any duplicates or  
 11 copies thereof, are destroyed and a letter is sent to the  
 12 court verifying the expungement is completed.

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

19 (f-6) The Illinois Department of State Police may  
 20 contract with third parties for the purposes of implementing  
 21 this amendatory Act of the 93rd General Assembly. Any other  
 22 party contracting to carry out the functions of this Section  
 23 shall be subject to the same restrictions and requirements of  
 24 this Section insofar as applicable, as the Illinois  
 25 Department of State Police, and to any additional  
 26 restrictions imposed by the Illinois Department of State  
 27 Police.

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

30 (1) any violation or inchoate violation of Section  
 31 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the  
 32 Criminal Code of 1961;~~7-08~~

33 (1.1) any violation or inchoate violation of  
 34 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,

1 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961  
2 for which persons are convicted on or after July 1,  
3 2001;~~7-08~~

4 (2) any former statute of this State which defined  
5 a felony sexual offense;~~7-08~~

6 (3) (blank);~~7-08~~

7 (4) any inchoate violation of Section 9-3.1,  
8 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961;~~7~~  
9 or

10 (5) any violation or inchoate violation of Article  
11 29D of the Criminal Code of 1961.

12 (g-5) (Blank).

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

21 (i)(1) A person required to provide a blood, saliva, or  
22 tissue specimen shall cooperate with the collection of the  
23 specimen and any deliberate act by that person intended to  
24 impede, delay or stop the collection of the blood, saliva, or  
25 tissue specimen is a Class A misdemeanor.

26 (2) In the event that a person's DNA sample is not  
27 adequate for any reason, the person shall provide another DNA  
28 sample for analysis. Duly authorized law enforcement and  
29 corrections personnel may employ reasonable force in cases in  
30 which an individual refuses to provide a DNA sample required  
31 under this Act.

32 (j) Any person required by subsection (a) to submit  
33 specimens of blood, saliva, or tissue to the Illinois  
34 Department of State Police for analysis and categorization

1 into genetic marker grouping, in addition to any other  
2 disposition, penalty, or fine imposed, shall pay an analysis  
3 fee of \$200. If the analysis fee is not paid at the time of  
4 sentencing, the court shall establish a fee schedule by which  
5 the entire amount of the analysis fee shall be paid in full,  
6 such schedule not to exceed 24 months from the time of  
7 conviction. The inability to pay this analysis fee shall not  
8 be the sole ground to incarcerate the person.

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

11 (1) The State Offender DNA Identification System  
12 Fund is hereby created as a special fund in the State  
13 Treasury.

14 (2) All fees shall be collected by the clerk of the  
15 court and forwarded to the State Offender DNA  
16 Identification System Fund for deposit. The clerk of the  
17 circuit court may retain the amount of \$10 from each  
18 collected analysis fee to offset administrative costs  
19 incurred in carrying out the clerk's responsibilities  
20 under this Section.

21 (3) Fees deposited into the State Offender DNA  
22 Identification System Fund shall be used by Illinois  
23 State Police crime laboratories as designated by the  
24 Director of State Police. These funds shall be in  
25 addition to any allocations made pursuant to existing  
26 laws and shall be designated for the exclusive use of  
27 State crime laboratories. These uses may include, but  
28 are not limited to, the following:

29 (A) Costs incurred in providing analysis and  
30 genetic marker categorization as required by  
31 subsection (d).

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

34 (C) Costs incurred in the purchase and



1 maintenance of equipment for use in performing  
2 analyses.

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

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

9 (1) The failure of a person to provide a specimen, or of  
10 any person or agency to collect a specimen, within the 45 day  
11 period shall in no way alter the obligation of the person to  
12 submit such specimen, or the authority of the Illinois  
13 Department of State Police or persons designated by the  
14 Department to collect the specimen, or the authority of the  
15 Illinois Department of State Police to accept, analyze and  
16 maintain the specimen or to maintain or upload results of  
17 genetic marker grouping analysis information into a State or  
18 national database.

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

23 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;  
24 92-40, eff. 6-29-01; 92-571, eff. 6-26-02; 92-600, eff.  
25 6-28-02; 92-829, eff. 8-22-02; 92-854, eff. 12-5-02; revised  
26 1-20-03.)