



Sen. John J. Cullerton

Filed: 5/22/2007

09500SB1023sam001

LRB095 05898 RLC 36635 a

1 AMENDMENT TO SENATE BILL 1023

2 AMENDMENT NO. _____. Amend Senate Bill 1023 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 116-3 as follows:

6 (725 ILCS 5/116-3)

7 Sec. 116-3. Motion for fingerprint, Integrated Ballistic
8 Identification System, or forensic testing not available at
9 trial regarding actual innocence.

10 (a) A defendant may make a motion before the trial court
11 that entered the judgment of conviction in his or her case for
12 the performance of fingerprint, Integrated Ballistic
13 Identification System, or forensic DNA testing, including
14 comparison analysis of genetic marker groupings of the evidence
15 collected by criminal justice agencies pursuant to the alleged
16 offense, to those of the defendant, to those of other forensic

1 evidence, and to those maintained under subsection (f) of
2 Section 5-4-3 of the Unified Code of Corrections, on evidence
3 that was secured in relation to the trial which resulted in his
4 or her conviction, and:

5 (1) but which was not subject to the testing which is
6 now requested ~~because the technology for the testing was~~
7 ~~not available~~ at the time of trial; or. Reasonable notice
8 ~~of the motion shall be served upon the State.~~

9 (2) although previously subjected to testing, can be
10 subjected to additional testing utilizing a method that was
11 not scientifically available at the time of trial that
12 provides a reasonable likelihood of more probative
13 results. Reasonable notice of the motion shall be served
14 upon the State.

15 (b) The defendant must present a prima facie case that:

16 (1) identity was the issue in the trial which resulted
17 in his or her conviction; and

18 (2) the evidence to be tested has been subject to a
19 chain of custody sufficient to establish that it has not
20 been substituted, tampered with, replaced, or altered in
21 any material aspect.

22 (c) The trial court shall allow the testing under
23 reasonable conditions designed to protect the State's
24 interests in the integrity of the evidence and the testing
25 process upon a determination that:

26 (1) the result of the testing has the scientific

1 potential to produce new, noncumulative evidence
2 materially relevant to the defendant's assertion of actual
3 innocence even though the results may not completely
4 exonerate the defendant;

5 (2) the testing requested employs a scientific method
6 generally accepted within the relevant scientific
7 community.

8 (d) If evidence previously tested pursuant to this Section
9 reveals an unknown fingerprint from the crime scene that does
10 not match the defendant or the victim, the order of the Court
11 shall direct the prosecuting authority to request the Illinois
12 State Police Bureau of Forensic Science to submit the unknown
13 fingerprint evidence into the FBI's Integrated Automated
14 Fingerprint Identification System (AIFIS) for identification.

15 (Source: P.A. 93-605, eff. 11-19-03.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law."