



Sen. Matt Murphy

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LRB096 10778 RLC 27457 a

1 AMENDMENT TO HOUSE BILL 935

2 AMENDMENT NO. _____. Amend House Bill 935 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Section 31-4 as follows:

6 (720 ILCS 5/31-4) (from Ch. 38, par. 31-4)

7 Sec. 31-4. Obstructing justice.

8 (a) A person obstructs justice when, with intent to prevent
9 the apprehension or obstruct the prosecution or defense of any
10 person, he knowingly commits any of the following acts:

11 (1) ~~(a)~~ Destroys, alters, conceals or disguises physical
12 evidence, plants false evidence, furnishes false information;
13 or

14 (2) ~~(b)~~ Induces a witness having knowledge material to the
15 subject at issue to leave the State or conceal himself; or

16 (3) ~~(c)~~ Possessing knowledge material to the subject at

1 issue, he leaves the State or conceals himself; or ~~or~~.

2 (4) Destroys, alters, conceals, disguises, or otherwise
3 tampers with samples collected under Section 107-2.5 of the
4 Code of Criminal Procedure of 1963 or Section 5-4-3 of the
5 Unified Code of Corrections.

6 (b) ~~(d)~~ Sentence.

7 (1) Obstructing justice is a Class 4 felony, except as
8 provided in paragraph (2) of this subsection (b) ~~(d)~~.

9 (2) Obstructing justice in furtherance of streetgang
10 related or gang-related activity, as defined in Section 10
11 of the Illinois Streetgang Terrorism Omnibus Prevention
12 Act, is a Class 3 felony. Obstructing justice in violation
13 of paragraph (a) (4) is a Class 3 felony.

14 (Source: P.A. 90-363, eff. 1-1-98.)

15 Section 10. The Code of Criminal Procedure of 1963 is
16 amended by adding Section 107-2.5 as follows:

17 (725 ILCS 5/107-2.5 new)

18 Sec. 107-2.5. DNA fingerprinting analysis.

19 (a) A law enforcement agency shall take a sample of a
20 person's saliva or tissue for DNA fingerprinting analysis,
21 after a judicial probable cause determination under Section
22 109-3 of this Code or return of an indictment by a grand jury
23 against the person on a charge of committing a felony offense.
24 For the purposes of this Section, DNA fingerprinting is for the

1 purpose of determining identity and for the purposes specified
2 in this Section and subsection (f) of Section 5-4-3 of the
3 Unified Code of Corrections. Any law enforcement agency
4 extracting DNA samples under this Section shall be required to
5 follow all written rules and regulations for the collection,
6 storage, and processing of those samples promulgated by the
7 Department of State Police, including procedures to verify that
8 the person's sample is not already on file with the Department.
9 The analysis shall be performed by the Department of State
10 Police or a specific agent approved by the Department of State
11 Police. The identification characteristics resulting from the
12 DNA analysis shall be stored and maintained by the Department
13 of State Police or the specific agent approved by the
14 Department. All results developed from collected DNA samples
15 shall be subject to any and all confidentiality provisions of
16 State and federal laws. The specific agent approved by the
17 Department of State Police to store and analyze DNA samples
18 shall be required to meet all Illinois State Police laboratory
19 accreditation requirements and shall properly forward the
20 results of the DNA analysis to the Department of State Police.

21 (b) If charges are dismissed or an individual is found not
22 guilty, any expungement of that person's DNA sample shall be in
23 accordance with the procedures set forth in Section 5 of the
24 Criminal Identification Act upon notification to the
25 Department of State Police by the court system.

26 (c) Subject to appropriation, the Department of State

1 Police shall implement this Section no later than the earlier
2 of the following: (1) the date on which the Department of State
3 Police informs law enforcement agencies that the Department is
4 ready to collect samples; or (2) January 1, 2012.

5 Section 15. The Unified Code of Corrections is amended by
6 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 for,
9 certain offenses or institutionalized as sexually dangerous;
10 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 a
14 qualifying offense, after a probable cause determination or
15 return of an indictment or convicted or found guilty of any
16 offense classified as a felony under Illinois law, convicted or
17 found guilty of any offense requiring registration under the
18 Sex Offender Registration Act, found guilty or given
19 supervision for any offense classified as a felony under the
20 Juvenile Court Act of 1987, convicted or found guilty of, under
21 the Juvenile Court Act of 1987, any offense requiring
22 registration under the Sex Offender Registration Act, or
23 institutionalized as a sexually dangerous person under the
24 Sexually Dangerous Persons Act, or committed as a sexually

1 violent person under the Sexually Violent Persons Commitment
2 Act shall, regardless of the sentence or disposition imposed,
3 be required to submit specimens of blood, saliva, or tissue to
4 the Illinois Department of State Police in accordance with the
5 provisions of this Section, provided such person is:

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

12 (1.5) found guilty or given supervision under the
13 Juvenile Court Act of 1987 for a qualifying offense or
14 attempt of a qualifying offense on or after January 1,
15 1997;

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

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

24 (3.5) convicted or found guilty of any offense
25 classified as a felony under Illinois law or found guilty
26 or given supervision for such an offense under the Juvenile

1 Court Act of 1987 on or after August 22, 2002;

2 (4) presently institutionalized as a sexually
3 dangerous person or presently institutionalized as a
4 person found guilty but mentally ill of a sexual offense or
5 attempt to commit a sexual offense;

6 (4.5) ordered committed as a sexually violent person on
7 or after the effective date of the Sexually Violent Persons
8 Commitment Act; ~~or~~

9 (5) seeking transfer to or residency in Illinois under
10 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
11 Corrections and the Interstate Compact for Adult Offender
12 Supervision or the Interstate Agreements on Sexually
13 Dangerous Persons Act; or -

14 (6) after a judicial probable cause determination or
15 return of an indictment on a charge of committing a felony
16 offense on or after the operative date of Section 107-2.5
17 of the Code of Criminal Procedure of 1963.

18 Notwithstanding other provisions of this Section, any
19 person incarcerated in a facility of the Illinois Department of
20 Corrections on or after August 22, 2002 shall be required to
21 submit a specimen of blood, saliva, or tissue prior to his or
22 her final discharge or release on parole or mandatory
23 supervised release, as a condition of his or her parole or
24 mandatory supervised release.

25 Notwithstanding other provisions of this Section, any
26 person sentenced to life imprisonment in a facility of the

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

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

23 (b) Any person required by paragraphs (a)(1), (a)(1.5),
24 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
25 saliva, or tissue shall provide specimens of blood, saliva, or
26 tissue within 45 days after sentencing or disposition at a

1 collection site designated by the Illinois Department of State
2 Police.

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

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

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

18 (c-7) Any person required by paragraph (a) (6) to provide
19 specimens of saliva or tissue shall be required to provide the
20 specimens as required by the collecting law enforcement agency.

21 (d) The Illinois Department of State Police shall provide
22 all equipment and instructions necessary for the collection of
23 blood samples. The collection of samples shall be performed in
24 a medically approved manner. Only a physician authorized to
25 practice medicine, a registered nurse or other qualified person
26 trained in venipuncture may withdraw blood for the purposes of

1 this Act. The samples shall thereafter be forwarded to the
2 Illinois Department of State Police, Division of Forensic
3 Services, for analysis and categorizing into genetic marker
4 groupings.

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

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

25 (d-5) To the extent that funds are available, the Illinois
26 Department of State Police shall contract with qualified

1 personnel and certified laboratories for the collection,
2 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 the
9 Illinois Department of State Police, Division of Forensic
10 Services.

11 (f) The genetic marker grouping analysis information
12 obtained pursuant to this Act and the information obtained
13 under Section 107-2.5 of the Code of Criminal Procedure of 1963
14 shall be confidential and shall be released only to peace
15 officers of the United States, of other states or territories,
16 of the insular possessions of the United States, of foreign
17 countries duly authorized to receive the same, to all peace
18 officers of the State of Illinois and to all prosecutorial
19 agencies, and to defense counsel as provided by Section 116-5
20 of the Code of Criminal Procedure of 1963. The genetic marker
21 grouping analysis information obtained pursuant to this Act
22 shall be used only for (i) valid law enforcement identification
23 purposes and as required by the Federal Bureau of Investigation
24 for participation in the National DNA database, (ii) technology
25 validation purposes, (iii) a population statistics database,
26 (iv) quality assurance purposes if personally identifying

1 information is removed, (v) assisting in the defense of the
2 criminally accused pursuant to Section 116-5 of the Code of
3 Criminal Procedure of 1963, or (vi) identifying and assisting
4 in the prosecution of a person who is suspected of committing a
5 sexual assault as defined in Section 1a of the Sexual Assault
6 Survivors Emergency Treatment Act. Having established the
7 State DNA identification index, a match between casework
8 evidence DNA samples from a criminal investigation and DNA
9 samples from a State or federal DNA database of eligible
10 offenders may be used only to sustain probable cause for the
11 issuance of a warrant to obtain the DNA sample from an eligible
12 offender for confirmation. The identification, detention,
13 arrest, or conviction of a person based upon a database match
14 or database information is not invalidated if it is later
15 determined that the sample should not have been obtained or
16 placed in the database. Notwithstanding any other statutory
17 provision to the contrary, all information obtained under this
18 Section shall be maintained in a single State data base, which
19 may be uploaded into a national database, and which information
20 may be subject to expungement only as set forth in subsection
21 (f-1).

22 (f-1) Upon receipt of a certified copy of a final court
23 order for notification of a reversal of each a conviction based
24 on actual innocence, if that document specifically states the
25 reason for the reversal is the actual innocence of an
26 individual, or of the granting of a pardon pursuant to Section

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

15 Upon receipt of a certified copy of a final court order for
16 each charge against an individual, whose DNA record has been
17 stored in the State or national DNA identification index in
18 accordance with this Section by the Illinois Department of
19 State Police, establishing that such a charge has been
20 dismissed or resulted in acquittal, the DNA record for that
21 arrest shall be expunged from the DNA identification index, and
22 the Department shall by rule prescribe procedures to ensure
23 that the record and any samples, analyses, or other documents
24 relating to such records, in the possession or control of the
25 Department are destroyed and a letter is sent to the court
26 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 under Section 107-2.5 of the
5 Code of Criminal Procedure of 1963, or any other Illinois law,
6 is guilty of a Class 3 ~~4~~ felony, and shall be subject to a fine
7 of not less than \$5,000.

8 (f-6) The Illinois Department of State Police may contract
9 with third parties for the purposes of implementing this
10 amendatory Act of the 93rd General Assembly. Any other party
11 contracting to carry out the functions of this Section shall be
12 subject to the same restrictions and requirements of this
13 Section insofar as applicable, as the Illinois Department of
14 State Police, and to any additional restrictions imposed by the
15 Illinois Department of State Police.

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

18 (1) any violation or inchoate violation of Section
19 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
20 Criminal Code of 1961;

21 (1.1) any violation or inchoate violation of Section
22 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
23 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
24 persons are convicted on or after July 1, 2001;

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

1 (3) (blank);

2 (4) any inchoate violation of Section 9-3.1, 11-9.3,
3 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

6 (g-5) (Blank).

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

15 (i) (1) A person required to provide a blood, saliva, or
16 tissue specimen shall cooperate with the collection of the
17 specimen and any deliberate act by that person intended to
18 impede, delay or stop the collection of the blood, saliva,
19 or tissue specimen is a Class A misdemeanor.

20 (2) In the event that a person's DNA sample is not
21 adequate for any reason, the person shall provide another
22 DNA sample for analysis. Duly authorized law enforcement
23 and corrections personnel may employ reasonable force in
24 cases in which an individual refuses to provide a DNA
25 sample required under this Act.

26 (j) Any person sentenced and required by subsection (a) to

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

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

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

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

22 (3) Fees deposited into the State Offender DNA
23 Identification System Fund shall be used by Illinois State
24 Police crime laboratories as designated by the Director of
25 State Police. These funds shall be in addition to any
26 allocations made pursuant to existing laws and shall be

1 designated for the exclusive use of State crime
2 laboratories. These uses may include, but are not limited
3 to, the following:

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

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

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

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

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

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

1 (m) If any provision of Public Act 93-216 ~~this amendatory~~
2 ~~Act of the 93rd General Assembly~~ is held unconstitutional or
3 otherwise invalid, the remainder of Public Act 93-216 ~~this~~
4 ~~amendatory Act of the 93rd General Assembly~~ is not affected.

5 (n) If any provision of this amendatory Act of the 96th
6 General Assembly is held unconstitutional or otherwise
7 invalid, the remainder of this amendatory Act of the 96th
8 General Assembly is not affected.

9 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
10 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
11 1-1-07.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.".