

1 AN ACT concerning criminal procedure.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

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

6 (725 ILCS 5/116-4)

7 Sec. 116-4. Chain of custody; retention.

8 (a) In a prosecution for a violation of Section 12-13,
9 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961
10 or in a prosecution for an offense defined in Article 9 of
11 that Code, the law enforcement agency and the State's
12 Attorney's Office shall preserve, subject to a continuous
13 chain of custody, any physical evidence secured in relation
14 to a trial and sufficient official documentation to locate
15 that evidence.

16 (b) After a trial resulting in a judgment of conviction
17 the evidence shall either be impounded with the Clerk of the
18 Circuit Court or shall be securely retained by a law
19 enforcement agency. Retention shall be:

20 (1) Permanent following any conviction for an
21 offense defined in Article 9 of the Criminal Code of
22 1961.

23 (2) For 25 years following any conviction for a
24 violation of Section 12-13, 12-14, 12-14.1, 12-15, or
25 12-16 of the Criminal Code of 1961.

26 (3) For 7 years following any conviction for any
27 other felony for which the defendant's genetic profile
28 may be taken by a law enforcement agency and submitted
29 for comparison in a forensic DNA database for unsolved
30 offenses.

31 (c) After a judgment of conviction is entered, the

1 State's Attorney or law enforcement agency having custody of
2 evidence described in subsection (a) may petition the court
3 with notice to the defendant for entry of an order allowing
4 it to dispose of evidence if, after a hearing, the court
5 determines by a preponderance of the evidence that:

6 (1) it has no significant value for forensic
7 science analysis and must be returned to its rightful
8 owner; or

9 (2) it has no significant value for forensic
10 science analysis and is of a size, bulk, or physical
11 character not usually retained by the law enforcement
12 agency and cannot practicably be retained by the law
13 enforcement agency.

14 (d) The court may order the disposition of the evidence
15 if the defendant is allowed the opportunity to take
16 reasonable measures to remove or preserve portions of the
17 evidence in question for future testing.

18 (e) For purposes of this Section, "law enforcement
19 agency" has the meaning ascribed to it in clause (a)(4) of
20 Section 107-4 of this Code.

21 (Source: P.A. 91-871, eff. 1-1-01.)