



Sen. Scott M. Bennett

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1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2339 by replacing  
3 everything after the enacting clause with the following:

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. Specimens; genetic marker groups.

8 (a) Any person convicted of, found guilty under the  
9 Juvenile Court Act of 1987 for, or who received a disposition  
10 of court supervision for, a qualifying offense or attempt of a  
11 qualifying offense, convicted or found guilty of any offense  
12 classified as a felony under Illinois law, convicted or found  
13 guilty of any offense requiring registration under the Sex  
14 Offender Registration Act, found guilty or given supervision  
15 for any offense classified as a felony under the Juvenile Court  
16 Act of 1987, convicted or found guilty of, under the Juvenile

1 Court Act of 1987, any offense requiring registration under the  
2 Sex Offender Registration Act, or institutionalized as a  
3 sexually dangerous person under the Sexually Dangerous Persons  
4 Act, or committed as a sexually violent person under the  
5 Sexually Violent Persons Commitment Act shall, regardless of  
6 the sentence or disposition imposed, be required to submit  
7 specimens of blood, saliva, or tissue to the Illinois  
8 Department of State Police in accordance with the provisions of  
9 this Section, provided such person is:

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

16 (1.5) found guilty or given supervision under the  
17 Juvenile Court Act of 1987 for a qualifying offense or  
18 attempt of a qualifying offense on or after January 1,  
19 1997;

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

22 (3) convicted of a qualifying offense or attempt of a  
23 qualifying offense before July 1, 1990 and is presently  
24 confined as a result of such conviction in any State  
25 correctional facility or county jail or is presently  
26 serving a sentence of probation, conditional discharge or

1 periodic imprisonment as a result of such conviction;

2 (3.5) convicted or found guilty of any offense  
3 classified as a felony under Illinois law or found guilty  
4 or given supervision for such an offense under the Juvenile  
5 Court Act of 1987 on or after August 22, 2002;

6 (4) presently institutionalized as a sexually  
7 dangerous person or presently institutionalized as a  
8 person found guilty but mentally ill of a sexual offense or  
9 attempt to commit a sexual offense; or

10 (4.5) ordered committed as a sexually violent person on  
11 or after the effective date of the Sexually Violent Persons  
12 Commitment Act.

13 (a-1) Any person incarcerated in a facility of the Illinois  
14 Department of Corrections or the Illinois Department of  
15 Juvenile Justice on or after August 22, 2002, whether for a  
16 term of years, natural life, or a sentence of death, who has  
17 not yet submitted a specimen of blood, saliva, or tissue shall  
18 be required to submit a specimen of blood, saliva, or tissue  
19 prior to his or her final discharge, or release on parole,  
20 aftercare release, or mandatory supervised release, as a  
21 condition of his or her parole, aftercare release, or mandatory  
22 supervised release, or within 6 months from August 13, 2009  
23 (the effective date of Public Act 96-426), whichever is sooner.  
24 A person incarcerated on or after August 13, 2009 (the  
25 effective date of Public Act 96-426) shall be required to  
26 submit a specimen within 45 days of incarceration, or prior to

1 his or her final discharge, or release on parole, aftercare  
2 release, or mandatory supervised release, as a condition of his  
3 or her parole, aftercare release, or mandatory supervised  
4 release, whichever is sooner. These specimens shall be placed  
5 into the State or national DNA database, to be used in  
6 accordance with other provisions of this Section, by the  
7 Illinois State Police.

8 (a-2) Any person sentenced to life imprisonment in a  
9 facility of the Illinois Department of Corrections after the  
10 effective date of this amendatory Act of the 94th General  
11 Assembly or sentenced to death after the effective date of this  
12 amendatory Act of the 94th General Assembly shall be required  
13 to provide a specimen of blood, saliva, or tissue within 45  
14 days after sentencing or disposition at a collection site  
15 designated by the Illinois Department of State Police. Any  
16 person serving a sentence of life imprisonment in a facility of  
17 the Illinois Department of Corrections on the effective date of  
18 this amendatory Act of the 94th General Assembly or any person  
19 who is under a sentence of death on the effective date of this  
20 amendatory Act of the 94th General Assembly shall be required  
21 to provide a specimen of blood, saliva, or tissue no later than  
22 June 30, 2019 ~~upon request~~ at a collection site designated by  
23 the Illinois Department of State Police.

24 (a-3) Any person seeking transfer to or residency in  
25 Illinois under Sections 3-3-11.05 through 3-3-11.5 of this  
26 Code, the Interstate Compact for Adult Offender Supervision, or

1 the Interstate Agreements on Sexually Dangerous Persons Act  
2 shall be required to provide a specimen of blood, saliva, or  
3 tissue within 45 days after transfer to or residency in  
4 Illinois at a collection site designated by the Illinois  
5 Department of State Police.

6 (a-3.1) Any person required by an order of the court to  
7 submit a DNA specimen shall be required to provide a specimen  
8 of blood, saliva, or tissue within 45 days after the court  
9 order at a collection site designated by the Illinois  
10 Department of State Police.

11 (a-3.2) On or after January 1, 2012 (the effective date of  
12 Public Act 97-383), any person arrested for any of the  
13 following offenses, after an indictment has been returned by a  
14 grand jury, or following a hearing pursuant to Section 109-3 of  
15 the Code of Criminal Procedure of 1963 and a judge finds there  
16 is probable cause to believe the arrestee has committed one of  
17 the designated offenses, or an arrestee has waived a  
18 preliminary hearing shall be required to provide a specimen of  
19 blood, saliva, or tissue within 14 days after such indictment  
20 or hearing at a collection site designated by the Illinois  
21 Department of State Police:

22 (A) first degree murder;

23 (B) home invasion;

24 (C) predatory criminal sexual assault of a child;

25 (D) aggravated criminal sexual assault; or

26 (E) criminal sexual assault.

1           (a-3.3) Any person required to register as a sex offender  
2 under the Sex Offender Registration Act, regardless of the date  
3 of conviction as set forth in subsection (c-5.2) shall be  
4 required to provide a specimen of blood, saliva, or tissue  
5 within the time period prescribed in subsection (c-5.2) at a  
6 collection site designated by the Illinois Department of State  
7 Police.

8           (a-4) On or after January 1, 2019, any person arrested for  
9 an offense classified as a felony under Illinois law, or for an  
10 offense that would require sex offender registration, shall be  
11 required to provide a saliva specimen as part of the jail  
12 booking or intake identification process, or as soon as  
13 administratively practicable thereafter, but, in any case,  
14 prior to release on bail or pending trial or any physical  
15 release from confinement or custody.

16           If the person subject to this subsection (a-4) did not have  
17 specimens taken during booking or intake identification  
18 process or is released on bail or pending trial or is not  
19 confined or incarcerated at the time of sentencing or otherwise  
20 bypasses a prison inmate reception center maintained by the  
21 Department of Corrections, the court shall order the person to  
22 report within 5 calendar days to a county jail facility or to a  
23 municipal, State, local, private, or other designated facility  
24 to provide the required specimens.

25           (a-5) Any person who was otherwise convicted of or received  
26 a disposition of court supervision for any other offense under

1 the Criminal Code of 1961 or the Criminal Code of 2012 or who  
2 was found guilty or given supervision for such a violation  
3 under the Juvenile Court Act of 1987, may, regardless of the  
4 sentence imposed, be required by an order of the court to  
5 submit specimens of blood, saliva, or tissue to the Illinois  
6 Department of State Police in accordance with the provisions of  
7 this Section.

8 (b) Any person required by paragraphs (a)(1), (a)(1.5),  
9 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,  
10 saliva, or tissue shall provide specimens of blood, saliva, or  
11 tissue within 45 days after sentencing or disposition at a  
12 collection site designated by the Illinois Department of State  
13 Police.

14 (c) Any person required by paragraphs (a)(3), (a)(4), and  
15 (a)(4.5) to provide specimens of blood, saliva, or tissue shall  
16 be required to provide such specimens prior to final discharge  
17 or within 6 months from August 13, 2009 (the effective date of  
18 Public Act 96-426), whichever is sooner. These specimens shall  
19 be placed into the State or national DNA database, to be used  
20 in accordance with other provisions of this Act, by the  
21 Illinois State Police.

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

1 State.

2 (c-5.2) Unless it is determined that a registered sex  
3 offender has previously submitted a specimen of blood, saliva,  
4 or tissue that has been placed into the State DNA database, a  
5 person registering as a sex offender shall be required to  
6 submit a specimen at the time of his or her initial  
7 registration pursuant to the Sex Offender Registration Act or,  
8 for a person registered as a sex offender on or prior to  
9 January 1, 2012 (the effective date of Public Act 97-383),  
10 within one year of January 1, 2012 (the effective date of  
11 Public Act 97-383) or at the time of his or her next required  
12 registration.

13 (c-6) The Illinois Department of State Police may determine  
14 which type of specimen or specimens, blood, saliva, or tissue,  
15 is acceptable for submission to the Division of Forensic  
16 Services for analysis. The Illinois Department of State Police  
17 may require the submission of fingerprints from anyone required  
18 to give a specimen under this Act.

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



1 Services, for analysis and categorizing into genetic marker  
2 groupings.

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

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

23 (d-5) To the extent that funds are available, the Illinois  
24 Department of State Police shall contract with qualified  
25 personnel and certified laboratories for the collection,  
26 analysis, and categorization of known specimens, except as

1 provided in subsection (n) of this Section.

2 (d-6) Agencies designated by the Illinois Department of  
3 State Police and the Illinois Department of State Police may  
4 contract with third parties to provide for the collection or  
5 analysis of DNA, or both, of an offender's blood, saliva, and  
6 tissue specimens, except as provided in subsection (n) of this  
7 Section.

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

1 Section 116-5 of the Code of Criminal Procedure of 1963, or  
2 (vi) identifying and assisting in the prosecution of a person  
3 who is suspected of committing a sexual assault as defined in  
4 Section 1a of the Sexual Assault Survivors Emergency Treatment  
5 Act. Notwithstanding any other statutory provision to the  
6 contrary, all information obtained under this Section shall be  
7 maintained in a single State data base, which may be uploaded  
8 into a national database, and which information may be subject  
9 to expungement only as set forth in subsection (f-1).

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

1 other charges or convictions that require submission of a  
2 specimen, the DNA record for an individual shall be expunged  
3 from the DNA identification databases and the specimen  
4 destroyed upon receipt of a certified copy of a final court  
5 order for each charge against an individual in which the charge  
6 has been dismissed, resulted in acquittal, or that the charge  
7 was not filed within the applicable time period. The Department  
8 shall by rule prescribe procedures to ensure that the record  
9 and any specimens in the possession or control of the  
10 Department are destroyed and a letter is sent to the court  
11 verifying the expungement is completed.

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

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

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

3 (1) any violation or inchoate violation of Section  
4 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or  
5 12-16 of the Criminal Code of 1961 or the Criminal Code of  
6 2012;

7 (1.1) any violation or inchoate violation of Section  
8 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,  
9 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of  
10 1961 or the Criminal Code of 2012 for which persons are  
11 convicted on or after July 1, 2001;

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

14 (3) (blank);

15 (4) any inchoate violation of Section 9-3.1, 9-3.4,  
16 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or  
17 the Criminal Code of 2012; or

18 (5) any violation or inchoate violation of Article 29D  
19 of the Criminal Code of 1961 or the Criminal Code of 2012.

20 (g-5) (Blank).

21 (h) The Illinois Department of State Police shall be the  
22 State central repository for all genetic marker grouping  
23 analysis information obtained pursuant to this Act. The  
24 Illinois Department of State Police may promulgate rules for  
25 the form and manner of the collection of blood, saliva, or  
26 tissue specimens and other procedures for the operation of this

1 Act. The provisions of the Administrative Review Law shall  
2 apply to all actions taken under the rules so promulgated.

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

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

14 (j) Any person required by subsection (a), or any person  
15 who was previously required by subsection (a-3.2), to submit  
16 specimens of blood, saliva, or tissue to the Illinois  
17 Department of State Police for analysis and categorization into  
18 genetic marker grouping, in addition to any other disposition,  
19 penalty, or fine imposed, shall pay an analysis fee of \$250. If  
20 the analysis fee is not paid at the time of sentencing, the  
21 court shall establish a fee schedule by which the entire amount  
22 of the analysis fee shall be paid in full, such schedule not to  
23 exceed 24 months from the time of conviction. The inability to  
24 pay this analysis fee shall not be the sole ground to  
25 incarcerate the person.

26 In addition to any other penalty assessment provided by

1 law, on and after the effective date of this amendatory Act of  
2 the 100th General Assembly, an additional penalty assessment  
3 shall be levied at the time of sentencing in an amount of 5% on  
4 every fine, penalty, and forfeiture imposed and collected by  
5 the courts for criminal offenses.

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

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

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

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

26 (A) Costs incurred in providing analysis and

1 genetic marker categorization as required by  
2 subsection (d).

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

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

7 (D) Costs incurred in continuing research and  
8 development of new techniques for analysis and genetic  
9 marker categorization.

10 (E) Costs incurred in continuing education,  
11 training, and professional development of forensic  
12 scientists regularly employed by these laboratories.

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

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

26 (n) Neither the Department of State Police, the Division of



1 Forensic Services, nor any laboratory of the Division of  
2 Forensic Services may contract out forensic testing for the  
3 purpose of an active investigation or a matter pending before a  
4 court of competent jurisdiction without the written consent of  
5 the prosecuting agency. For the purposes of this subsection  
6 (n), "forensic testing" includes the analysis of physical  
7 evidence in an investigation or other proceeding for the  
8 prosecution of a violation of the Criminal Code of 1961 or the  
9 Criminal Code of 2012 or for matters adjudicated under the  
10 Juvenile Court Act of 1987, and includes the use of forensic  
11 databases and databanks, including DNA, firearm, and  
12 fingerprint databases, and expert testimony.

13 (o) Mistake does not invalidate a database match. The  
14 detention, arrest, or conviction of a person based upon a  
15 database match or database information is not invalidated if it  
16 is determined that the specimen was obtained or placed in the  
17 database by mistake.

18 (p) This Section may be referred to as the Illinois DNA  
19 Database Law of 2011.

20 (Source: P.A. 97-383, eff. 1-1-12; 97-1109, eff. 1-1-13;  
21 97-1150, eff. 1-25-13; 98-558, eff. 1-1-14.)".