

1 AN ACT concerning criminal law.

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. Specimens ~~Persons convicted of, or found~~
8 ~~delinquent for, certain offenses or institutionalized as~~
9 ~~sexually 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 a
13 qualifying offense, convicted or found guilty of any offense
14 classified as a felony under Illinois law, convicted or found
15 guilty of any offense requiring registration under the Sex
16 Offender Registration Act, found guilty or given supervision
17 for any offense classified as a felony under the Juvenile Court
18 Act of 1987, convicted or found guilty of, under the Juvenile
19 Court Act of 1987, any offense requiring registration under the
20 Sex Offender Registration Act, or institutionalized as a
21 sexually dangerous person under the Sexually Dangerous Persons
22 Act, or committed as a sexually violent person under the
23 Sexually Violent Persons Commitment Act shall, regardless of

1 the sentence or disposition imposed, be required to submit
2 specimens of blood, saliva, or tissue to the Illinois
3 Department of State Police in accordance with the provisions of
4 this Section, provided such person is:

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

11 (1.5) found guilty or given supervision under the
12 Juvenile Court Act of 1987 for a qualifying offense or
13 attempt of a qualifying offense on or after January 1,
14 1997;

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

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

23 (3.5) convicted or found guilty of any offense
24 classified as a felony under Illinois law or found guilty
25 or given supervision for such an offense under the Juvenile
26 Court Act of 1987 on or after August 22, 2002;

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

5 (4.5) ordered committed as a sexually violent person on
6 or after the effective date of the Sexually Violent Persons
7 Commitment Act. ~~or~~

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

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

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

7 (a-2) Any ~~Notwithstanding other provisions of this~~
8 ~~Section, 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 upon request
22 at a collection site designated by the Illinois Department of
23 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 the effective date of this amendatory
12 Act of the 97th General Assembly, any person arrested for any
13 of the following offenses, after an indictment has been
14 returned by a grand jury, or following a hearing pursuant to
15 Section 109-3 of the Code of Criminal Procedure of 1963 and a
16 judge finds there is probable cause to believe the arrestee has
17 committed one of the designated offenses, or an arrestee has
18 waived a preliminary hearing shall be required to provide a
19 specimen of blood, saliva, or tissue within 14 days after such
20 indictment or hearing at a collection site designated by the
21 Illinois 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-5) Any person who was otherwise convicted of or received
9 a disposition of court supervision for any other offense under
10 the Criminal Code of 1961 or who was found guilty or given
11 supervision for such a violation under the Juvenile Court Act
12 of 1987, may, regardless of the sentence imposed, be required
13 by an order of the court to submit specimens of blood, saliva,
14 or tissue to the Illinois Department of State Police in
15 accordance with the provisions 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, or
19 tissue within 45 days after sentencing or disposition at a
20 collection site designated by the Illinois Department of State
21 Police.

22 (c) Any person required by paragraphs (a) (3), (a) (4), and
23 (a) (4.5) to provide specimens of blood, saliva, or tissue shall
24 be required to provide such specimens ~~samples~~ prior to final
25 discharge or within 6 months from August 13, 2009 (the
26 effective date of Public Act 96-426), whichever is sooner.

1 These specimens shall be placed into the State or national DNA
2 database, to be used in accordance with other provisions of
3 this Act, by the Illinois State Police.

4 (c-5) Any person required by paragraph (a-3) ~~(a)(5)~~ to
5 provide specimens of blood, saliva, or tissue shall, where
6 feasible, be required to provide the specimens before being
7 accepted for conditioned residency in Illinois under the
8 interstate compact or agreement, but no later than 45 days
9 after arrival in this State.

10 (c-5.2) Unless it is determined that a registered sex
11 offender has previously submitted a specimen of blood, saliva,
12 or tissue that has been placed into the State DNA database, a
13 person registering as a sex offender shall be required to
14 submit a specimen at the time of his or her initial
15 registration pursuant to the Sex Offender Registration Act or,
16 for a person registered as a sex offender on or prior to the
17 effective date of this amendatory Act of the 97th General
18 Assembly, within one year of the effective date of this
19 amendatory Act or at the time of his or her next required
20 registration.

21 (c-6) The Illinois Department of State Police may determine
22 which type of specimen or specimens, blood, saliva, or tissue,
23 is acceptable for submission to the Division of Forensic
24 Services for analysis. The Illinois Department of State Police
25 may require the submission of fingerprints from anyone required
26 to give a specimen under this Act.

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

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

21 (d-2) The Illinois Department of State Police shall provide
22 all equipment and instructions necessary for the collection of
23 tissue specimens ~~samples~~. The collection of tissue specimens
24 ~~samples~~ shall be performed in a medically approved manner. Only
25 a person trained in the instructions promulgated by the
26 Illinois State Police on collecting tissue may collect tissue

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

5 (d-5) To the extent that funds are available, the Illinois
6 Department of State Police shall contract with qualified
7 personnel and certified laboratories for the collection,
8 analysis, and categorization of known specimens ~~samples~~,
9 except as provided in subsection (n) of this Section.

10 (d-6) Agencies designated by the Illinois Department of
11 State Police and the Illinois Department of State Police may
12 contract with third parties to provide for the collection or
13 analysis of DNA, or both, of an offender's blood, saliva, and
14 tissue specimens ~~samples~~, except as provided in subsection (n)
15 of this Section.

16 (e) The genetic marker groupings shall be maintained by the
17 Illinois Department of State Police, Division of Forensic
18 Services.

19 (f) The genetic marker grouping analysis information
20 obtained pursuant to this Act shall be confidential and shall
21 be released only to peace officers of the United States, of
22 other states or territories, of the insular possessions of the
23 United States, of foreign countries duly authorized to receive
24 the same, to all peace officers of the State of Illinois and to
25 all prosecutorial agencies, and to defense counsel as provided
26 by Section 116-5 of the Code of Criminal Procedure of 1963. The

1 genetic marker grouping analysis information obtained pursuant
2 to this Act shall be used only for (i) valid law enforcement
3 identification purposes and as required by the Federal Bureau
4 of Investigation for participation in the National DNA
5 database, (ii) technology validation purposes, (iii) a
6 population statistics database, (iv) quality assurance
7 purposes if personally identifying information is removed, (v)
8 assisting in the defense of the criminally accused pursuant to
9 Section 116-5 of the Code of Criminal Procedure of 1963, or
10 (vi) identifying and assisting in the prosecution of a person
11 who is suspected of committing a sexual assault as defined in
12 Section 1a of the Sexual Assault Survivors Emergency Treatment
13 Act. Notwithstanding any other statutory provision to the
14 contrary, all information obtained under this Section shall be
15 maintained in a single State data base, which may be uploaded
16 into a national database, and which information may be subject
17 to expungement only as set forth in subsection (f-1).

18 (f-1) Upon receipt of notification of a reversal of a
19 conviction based on actual innocence, or of the granting of a
20 pardon pursuant to Section 12 of Article V of the Illinois
21 Constitution, if that pardon document specifically states that
22 the reason for the pardon is the actual innocence of an
23 individual whose DNA record has been stored in the State or
24 national DNA identification index in accordance with this
25 Section by the Illinois Department of State Police, the DNA
26 record shall be expunged from the DNA identification index, and

1 the Department shall by rule prescribe procedures to ensure
2 that the record and any specimens ~~samples~~, analyses, or other
3 documents relating to such record, whether in the possession of
4 the Department or any law enforcement or police agency, or any
5 forensic DNA laboratory, including any duplicates or copies
6 thereof, are destroyed and a letter is sent to the court
7 verifying the expungement is completed. For specimens required
8 to be collected prior to conviction, unless the individual has
9 other charges or convictions that require submission of a
10 specimen, the DNA record for an individual shall be expunged
11 from the DNA identification databases and the specimen
12 destroyed upon receipt of a certified copy of a final court
13 order for each charge against an individual in which the charge
14 has been dismissed, resulted in acquittal, or that the charge
15 was not filed within the applicable time period. The Department
16 shall by rule prescribe procedures to ensure that the record
17 and any specimens in the possession or control of the
18 Department are destroyed and a letter is sent to the court
19 verifying the expungement is completed.

20 (f-5) Any person who intentionally uses genetic marker
21 grouping analysis information, or any other information
22 derived from a DNA specimen ~~sample~~, beyond the authorized uses
23 as provided under this Section, or any other Illinois law, is
24 guilty of a Class 4 felony, and shall be subject to a fine of
25 not less than \$5,000.

26 (f-6) The Illinois Department of State Police may contract

1 with third parties for the purposes of implementing this
2 amendatory Act of the 93rd General Assembly, except as provided
3 in subsection (n) of this Section. Any other party contracting
4 to carry out the functions of this Section shall be subject to
5 the same restrictions and requirements of this Section insofar
6 as applicable, as the Illinois Department of State Police, and
7 to any additional restrictions imposed by the Illinois
8 Department of State Police.

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

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

14 (1.1) any violation or inchoate violation of Section
15 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
16 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
17 persons are convicted on or after July 1, 2001;

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

20 (3) (blank);

21 (4) any inchoate violation of Section 9-3.1, 11-9.3,
22 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

25 (g-5) (Blank).

26 (h) The Illinois Department of State Police shall be the

1 State central repository for all genetic marker grouping
2 analysis information obtained pursuant to this Act. The
3 Illinois Department of State Police may promulgate rules for
4 the form and manner of the collection of blood, saliva, or
5 tissue specimens ~~samples~~ and other procedures for the operation
6 of this Act. The provisions of the Administrative Review Law
7 shall apply to all actions taken under the rules so
8 promulgated.

9 (i) (1) A person required to provide a blood, saliva, or
10 tissue specimen shall cooperate with the collection of the
11 specimen and any deliberate act by that person intended to
12 impede, delay or stop the collection of the blood, saliva,
13 or tissue specimen is a Class 4 felony ~~A misdemeanor~~.

14 (2) In the event that a person's DNA specimen ~~sample~~ is
15 not adequate for any reason, the person shall provide
16 another DNA specimen ~~sample~~ for analysis. Duly authorized
17 law enforcement and corrections personnel may employ
18 reasonable force in cases in which an individual refuses to
19 provide a DNA specimen ~~sample~~ required under this Act.

20 (j) Any person required by subsection (a), or any person
21 who was previously required by subsection (a-3.2), to submit
22 specimens of blood, saliva, or tissue to the Illinois
23 Department of State Police for analysis and categorization into
24 genetic marker grouping, in addition to any other disposition,
25 penalty, or fine imposed, shall pay an analysis fee of \$250
26 ~~\$200~~. If the analysis fee is not paid at the time of

1 sentencing, the court shall establish a fee schedule by which
2 the entire amount of the analysis fee shall be paid in full,
3 such schedule not to exceed 24 months from the time of
4 conviction. The inability to pay this analysis fee shall not be
5 the sole ground to incarcerate the person.

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 to offset administrative costs
15 incurred in carrying out the clerk's responsibilities
16 under this Section.

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

25 (A) Costs incurred in providing analysis and
26 genetic marker categorization as required by

1 subsection (d).

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

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

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

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

12 (1) The failure of a person to provide a specimen, or of
13 any person or agency to collect a specimen, ~~within the 45-day~~
14 ~~period~~ shall in no way alter the obligation of the person to
15 submit such specimen, or the authority of the Illinois
16 Department of State Police or persons designated by the
17 Department to collect the specimen, or the authority of the
18 Illinois Department of State Police to accept, analyze and
19 maintain the specimen or to maintain or upload results of
20 genetic marker grouping analysis information into a State or
21 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 for
9 matters adjudicated under the Juvenile Court Act of 1987, and
10 includes the use of forensic databases and databanks, including
11 DNA, firearm, and fingerprint databases, and expert testimony.

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

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

19 (Source: P.A. 96-426, eff. 8-13-09; 96-642, eff. 8-24-09;
20 96-1000, eff. 7-2-10.)

21 Section 10. The Sex Offender Registration Act is amended by
22 changing Section 8 as follows:

23 (730 ILCS 150/8) (from Ch. 38, par. 228)

24 Sec. 8. Registration and DNA submission requirements

1 ~~Requirements.~~

2 (a) Registration. Registration as required by this Article
3 shall consist of a statement in writing signed by the person
4 giving the information that is required by the Department of
5 State Police, which may include the fingerprints and must
6 include a current photograph of the person, to be updated
7 annually. If the sex offender is a child sex offender as
8 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
9 1961, he or she shall sign a statement that he or she
10 understands that according to Illinois law as a child sex
11 offender he or she may not reside within 500 feet of a school,
12 park, or playground. The offender may also not reside within
13 500 feet of a facility providing services directed exclusively
14 toward persons under 18 years of age unless the sex offender
15 meets specified exemptions. The registration information must
16 include whether the person is a sex offender as defined in the
17 Sex Offender Community Notification Law. Within 3 days, the
18 registering law enforcement agency shall forward any required
19 information to the Department of State Police. The registering
20 law enforcement agency shall enter the information into the Law
21 Enforcement Agencies Data System (LEADS) as provided in
22 Sections 6 and 7 of the Intergovernmental Missing Child
23 Recovery Act of 1984.

24 (b) DNA submission. Every person registering as a sex
25 offender pursuant to this Act, regardless of the date of
26 conviction or the date of initial registration who is required

1 to submit specimens of blood, saliva, or tissue for DNA
2 analysis as required by subsection (a) of Section 5-4-3 of the
3 Unified Code of Corrections shall submit the specimens as
4 required by that Section. Registered sex offenders who have
5 previously submitted a DNA specimen which has been uploaded to
6 the Illinois DNA database shall not be required to submit an
7 additional specimen pursuant to this Section.

8 (Source: P.A. 93-979, eff. 8-20-04; 94-166, eff. 1-1-06;
9 94-945, eff. 6-27-06.)

10 Section 97. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes.