

1 AN ACT in relation to criminal law.

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 adding Section 114-15 as follows:

6 (725 ILCS 5/114-15 new)

7 Sec. 114-15. Motion for genetic marker groupings
8 comparison analysis.

9 (a) In a capital case, the defendant may make a motion
10 for a court order before trial for comparison analysis by
11 the Department of State Police with those genetic marker
12 groupings maintained under subsection (f) of Section 5-4-3
13 of the Unified Code of Corrections if the defendant meets
14 all of the following requirements:

15 (1) The defendant is charged with first degree
16 murder and the State has filed a notice of intent to seek
17 the death penalty under Supreme Court Rule 416.

18 (2) The defendant seeks for the Department of State
19 Police to identify genetic marker groupings from
20 evidence collected by criminal justice agencies pursuant
21 to the alleged offense.

22 (3) The defendant seeks comparison analysis of
23 genetic marker groupings of the evidence under
24 subdivision (2) to those of the defendant, to those of
25 other forensic evidence, and to those maintained under
26 subsection (f) of Section 5-4-3 of the Unified Code of
27 Corrections.

28 (4) Genetic marker grouping analysis must be
29 performed by a laboratory compliant with the quality
30 assurance standards required by the Department of State
31 Police for genetic marker grouping analysis comparisons.

1 (5) Reasonable notice of the motion shall be served
2 upon the State.

3 (b) The Department of State Police may promulgate rules
4 for the types of comparisons performed and the quality
5 assurance standards required for submission of genetic marker
6 groupings. The provisions of the Administrative Review Law
7 shall apply to all actions taken under the rules so
8 promulgated.

9 Section 10. The Unified Code of Corrections is amended by
10 changing Section 5-4-3 as follows:

11 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

12 Sec. 5-4-3. Persons convicted of, or found delinquent
13 for, certain offenses or institutionalized as sexually
14 dangerous; specimens; genetic marker groups.

15 (a) Any person convicted of, found guilty under the
16 Juvenile Court Act of 1987 for, or who received a disposition
17 of court supervision for, a qualifying offense or attempt of
18 a qualifying offense, convicted or found guilty of any
19 offense classified as a felony under Illinois law, found
20 guilty or given supervision for any offense classified as a
21 felony under the Juvenile Court Act of 1987, or
22 institutionalized as a sexually dangerous person under the
23 Sexually Dangerous Persons Act, or committed as a sexually
24 violent person under the Sexually Violent Persons Commitment
25 Act shall, regardless of the sentence or disposition imposed,
26 be required to submit specimens of blood, saliva, or tissue
27 to the Illinois Department of State Police in accordance with
28 the provisions of this Section, provided such person is:

29 (1) convicted of a qualifying offense or attempt of
30 a qualifying offense on or after July 1, 1990 the
31 ~~effective--date--of--this--amendatory--Act--of--1989,~~ and
32 sentenced to a term of imprisonment, periodic

1 imprisonment, fine, probation, conditional discharge or
2 any other form of sentence, or given a disposition of
3 court supervision for the offense; ~~or~~

4 (1.5) found guilty or given supervision under the
5 Juvenile Court Act of 1987 for a qualifying offense or
6 attempt of a qualifying offense on or after January 1,
7 1997; ~~the effective date of this amendatory Act of 1996,~~
8 ~~or~~

9 (2) ordered institutionalized as a sexually
10 dangerous person on or after July 1, 1990; ~~the effective~~
11 ~~date of this amendatory Act of 1989,~~ ~~or~~

12 (3) convicted of a qualifying offense or attempt of
13 a qualifying offense before July 1, 1990 ~~the effective~~
14 ~~date of this amendatory Act of 1989~~ and is presently
15 confined as a result of such conviction in any State
16 correctional facility or county jail or is presently
17 serving a sentence of probation, conditional discharge or
18 periodic imprisonment as a result of such conviction; ~~or~~

19 (3.5) convicted or found guilty of any offense
20 classified as a felony under Illinois law or found guilty
21 or given supervision for such an offense under the
22 Juvenile Court Act of 1987 on or after August 22, 2002;
23 ~~the effective date of this amendatory Act of the 92nd~~
24 ~~General Assembly,~~ ~~or~~

25 (4) presently institutionalized as a sexually
26 dangerous person or presently institutionalized as a
27 person found guilty but mentally ill of a sexual offense
28 or attempt to commit a sexual offense; ~~or~~

29 (4.5) ordered committed as a sexually violent
30 person on or after the effective date of the Sexually
31 Violent Persons Commitment Act; or

32 (5) seeking transfer to or residency in Illinois
33 under Sections 3-3-11.05 through 3-3-11.5 of the Unified
34 Code of Corrections and the Interstate Compact for Adult

1 Offender Supervision or the Interstate Agreements on
2 Sexually Dangerous Persons Act.

3 Notwithstanding other provisions of this Section, any
4 person incarcerated in a facility of the Illinois Department
5 of Corrections on or after August 22, 2002 ~~the-effective-date~~
6 ~~of-this-amendatory-Act-of-the-92nd-General-Assembly~~ shall be
7 required to submit a specimen of blood, saliva, or tissue
8 prior to his or her release on parole or mandatory supervised
9 release, as a condition of his or her parole or mandatory
10 supervised release.

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

20 (b) Any person required by paragraphs (a)(1), (a)(1.5),
21 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
22 saliva, or tissue shall provide specimens of blood, saliva,
23 or tissue within 45 days after sentencing or disposition at a
24 collection site designated by the Illinois Department of
25 State Police.

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

31 (c-5) Any person required by paragraph (a)(5) to provide
32 specimens of blood, saliva, or tissue shall, where feasible,
33 be required to provide the specimens before being accepted
34 for conditioned residency in Illinois under the interstate

1 compact or agreement, but no later than 45 days after arrival
2 in this State.

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

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

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

27 (d-2) The Illinois Department of State Police shall
28 provide all equipment and instructions necessary for the
29 collection of tissue samples. The collection of tissue
30 samples shall be performed in a medically approved manner.
31 Only a person trained in the instructions promulgated by the
32 Illinois State Police on collecting tissue may collect tissue
33 for the purposes of this Section. The samples shall
34 thereafter be forwarded to the Illinois Department of State

1 Police, Division of Forensic Services, for analysis and
2 categorizing into genetic marker groupings.

3 (d-5) To the extent that funds are available, the
4 Illinois Department of State Police shall contract with
5 qualified personnel and certified laboratories for the
6 collection, analysis, and categorization of known samples.

7 (e) The genetic marker groupings shall be maintained by
8 the Illinois Department of State Police, Division of Forensic
9 Services.

10 (f) The genetic marker grouping analysis information
11 obtained pursuant to this Act shall be confidential and shall
12 be released only to peace officers of the United States, of
13 other states or territories, of the insular possessions of
14 the United States, of foreign countries duly authorized to
15 receive the same, to all peace officers of the State of
16 Illinois and to all prosecutorial agencies. Notwithstanding
17 the limits on disclosure stated by this subsection (f), the
18 genetic marker grouping analysis information obtained under
19 this Act also may be released by court order pursuant to a
20 motion under Section 114-15 of the Code of Criminal Procedure
21 of 1963 to a defendant who meets all of the requirements
22 under that Section. The genetic marker grouping analysis
23 information obtained pursuant to this Act shall be used only
24 for (i) valid law enforcement identification purposes and as
25 required by the Federal Bureau of Investigation for
26 participation in the National DNA database or (ii) technology
27 validation purposes. Notwithstanding any other statutory
28 provision to the contrary, all information obtained under
29 this Section shall be maintained in a single State data base,
30 which may be uploaded into a national database, and which
31 information may be subject to expungement only as set forth
32 in subsection (f-1).

33 (f-1) Upon receipt of notification of a reversal of a
34 conviction based on actual innocence, or of the granting of a

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

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

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

23 (1) any violation or inchoate violation of Section
 24 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
 25 Criminal Code of 1961;~~i7-er~~

26 (1.1) any violation or inchoate violation of
 27 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,
 28 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961
 29 for which persons are convicted on or after July 1,
 30 2001;~~i7-er~~

31 (2) any former statute of this State which defined
 32 a felony sexual offense;~~i7-er~~

33 (3) (blank);~~i7-er~~

34 (4) any inchoate violation of Section 9-3.1,

1 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961;
2 or

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

5 (g-5) (Blank).

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

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

19 (j) Any person required by subsection (a) to submit
20 specimens of blood, saliva, or tissue to the Illinois
21 Department of State Police for analysis and categorization
22 into genetic marker grouping, in addition to any other
23 disposition, penalty, or fine imposed, shall pay an analysis
24 fee of \$200. If the analysis fee is not paid at the time of
25 sentencing, the court shall establish a fee schedule by which
26 the entire amount of the analysis fee shall be paid in full,
27 such schedule not to exceed 24 months from the time of
28 conviction. The inability to pay this analysis fee shall not
29 be the sole ground to incarcerate the person.

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

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

1 (2) All fees shall be collected by the clerk of the
2 court and forwarded to the State Offender DNA
3 Identification System Fund for deposit. The clerk of the
4 circuit court may retain the amount of \$10 from each
5 collected analysis fee to offset administrative costs
6 incurred in carrying out the clerk's responsibilities
7 under this Section.

8 (3) Fees deposited into the State Offender DNA
9 Identification System Fund shall be used by Illinois
10 State Police crime laboratories as designated by the
11 Director of State Police. These funds shall be in
12 addition to any allocations made pursuant to existing
13 laws and shall be designated for the exclusive use of
14 State crime laboratories. These uses may include, but
15 are not limited to, the following:

16 (A) Costs incurred in providing analysis and
17 genetic marker categorization as required by
18 subsection (d).

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

21 (C) Costs incurred in the purchase and
22 maintenance of equipment for use in performing
23 analyses.

24 (D) Costs incurred in continuing research and
25 development of new techniques for analysis and
26 genetic marker categorization.

27 (E) Costs incurred in continuing education,
28 training, and professional development of forensic
29 scientists regularly employed by these laboratories.

30 (1) The failure of a person to provide a specimen, or of
31 any person or agency to collect a specimen, within the 45 day
32 period shall in no way alter the obligation of the person to
33 submit such specimen, or the authority of the Illinois
34 Department of State Police or persons designated by the

1 Department to collect the specimen, or the authority of the
2 Illinois Department of State Police to accept, analyze and
3 maintain the specimen or to maintain or upload results of
4 genetic marker grouping analysis information into a State or
5 national database.

6 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
7 92-40, eff. 6-29-01; 92-571, eff. 6-26-02; 92-600, eff.
8 6-28-02; 92-829, eff. 8-22-02; 92-854, eff. 12-5-02; revised
9 1-20-03.)