



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB4608

Introduced 1/11/2006, by Rep. Susana A Mendoza

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4-3

from Ch. 38, par. 1005-4-3

Amends the Unified Code of Corrections. Provides that a person convicted of or found guilty of an offense that would require that person to register as a sex offender under the Sex Offender Registration Act shall submit specimens of blood, saliva, or tissue to the Department of State Police for DNA analysis and categorizing into genetic marker groupings.

LRB094 16588 RLC 51849 b

FISCAL NOTE ACT
MAY APPLY

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. Persons convicted of, or found delinquent for,
8 certain offenses or institutionalized as sexually dangerous;
9 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, found guilty or
15 given supervision for any offense classified as a felony under
16 the Juvenile Court Act of 1987, or institutionalized as a
17 sexually dangerous person under the Sexually Dangerous Persons
18 Act, or committed as a sexually violent person under the
19 Sexually Violent Persons Commitment Act, or any person
20 convicted of or found guilty of an offense that would require
21 that person to register as a sex offender under the Sex
22 Offender Registration Act shall, regardless of the sentence or
23 disposition imposed, be required to submit specimens of blood,
24 saliva, or tissue to the Illinois Department of State Police in
25 accordance with the provisions of this Section, provided such
26 person is:

27 (1) convicted of a qualifying offense or attempt of a
28 qualifying offense on or after July 1, 1990 and sentenced
29 to a term of imprisonment, periodic imprisonment, fine,
30 probation, conditional discharge or any other form of
31 sentence, or given a disposition of court supervision for
32 the offense;

1 (1.5) found guilty or given supervision under the
2 Juvenile Court Act of 1987 for a qualifying offense or
3 attempt of a qualifying offense on or after January 1,
4 1997;

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

7 (3) convicted of a qualifying offense or attempt of a
8 qualifying offense before July 1, 1990 and is presently
9 confined as a result of such conviction in any State
10 correctional facility or county jail or is presently
11 serving a sentence of probation, conditional discharge or
12 periodic imprisonment as a result of such conviction;

13 (3.5) convicted or found guilty of any offense
14 classified as a felony under Illinois law or found guilty
15 or given supervision for such an offense under the Juvenile
16 Court Act of 1987 on or after August 22, 2002;

17 (4) presently institutionalized as a sexually
18 dangerous person or presently institutionalized as a
19 person found guilty but mentally ill of a sexual offense or
20 attempt to commit a sexual offense;

21 (4.5) ordered committed as a sexually violent person on
22 or after the effective date of the Sexually Violent Persons
23 Commitment Act; or

24 (5) seeking transfer to or residency in Illinois under
25 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
26 Corrections and the Interstate Compact for Adult Offender
27 Supervision or the Interstate Agreements on Sexually
28 Dangerous Persons Act.

29 Notwithstanding other provisions of this Section, any
30 person incarcerated in a facility of the Illinois Department of
31 Corrections on or after August 22, 2002 shall be required to
32 submit a specimen of blood, saliva, or tissue prior to his or
33 her final discharge or release on parole or mandatory
34 supervised release, as a condition of his or her parole or
35 mandatory supervised release.

36 Notwithstanding other provisions of this Section, any

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

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

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

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

35 (c-5) Any person required by paragraph (a)(5) to provide
36 specimens of blood, saliva, or tissue shall, where feasible, be

1 required to provide the specimens before being accepted for
2 conditioned residency in Illinois under the interstate compact
3 or agreement, but no later than 45 days after arrival in this
4 State.

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

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

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

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

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

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

7 (d-6) Agencies designated by the Illinois Department of
8 State Police and the Illinois Department of State Police may
9 contract with third parties to provide for the collection or
10 analysis of DNA, or both, of an offender's blood, saliva, and
11 tissue samples.

12 (e) The genetic marker groupings shall be maintained by the
13 Illinois Department of State Police, Division of Forensic
14 Services.

15 (f) The genetic marker grouping analysis information
16 obtained pursuant to this Act shall be confidential and shall
17 be released only to peace officers of the United States, of
18 other states or territories, of the insular possessions of the
19 United States, of foreign countries duly authorized to receive
20 the same, to all peace officers of the State of Illinois and to
21 all prosecutorial agencies, and to defense counsel as provided
22 by Section 116-5 of the Code of Criminal Procedure of 1963. The
23 genetic marker grouping analysis information obtained pursuant
24 to this Act shall be used only for (i) valid law enforcement
25 identification purposes and as required by the Federal Bureau
26 of Investigation for participation in the National DNA
27 database, (ii) technology validation purposes, (iii) a
28 population statistics database, (iv) quality assurance
29 purposes if personally identifying information is removed, (v)
30 assisting in the defense of the criminally accused pursuant to
31 Section 116-5 of the Code of Criminal Procedure of 1963, or
32 (vi) identifying and assisting in the prosecution of a person
33 who is suspected of committing a sexual assault as defined in
34 Section 1a of the Sexual Assault Survivors Emergency Treatment
35 Act. Notwithstanding any other statutory provision to the
36 contrary, all information obtained under this Section shall be

1 maintained in a single State data base, which may be uploaded
2 into a national database, and which information may be subject
3 to expungement only as set forth in subsection (f-1).

4 (f-1) Upon receipt of notification of a reversal of a
5 conviction based on actual innocence, or of the granting of a
6 pardon pursuant to Section 12 of Article V of the Illinois
7 Constitution, if that pardon document specifically states that
8 the reason for the pardon is the actual innocence of an
9 individual whose DNA record has been stored in the State or
10 national DNA identification index in accordance with this
11 Section by the Illinois Department of State Police, the DNA
12 record shall be expunged from the DNA identification index, and
13 the Department shall by rule prescribe procedures to ensure
14 that the record and any samples, analyses, or other documents
15 relating to such record, whether in the possession of the
16 Department or any law enforcement or police agency, or any
17 forensic DNA laboratory, including any duplicates or copies
18 thereof, 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 sample, beyond the authorized uses as
23 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
27 with third parties for the purposes of implementing this
28 amendatory Act of the 93rd General Assembly. Any other party
29 contracting to carry out the functions of this Section shall be
30 subject to the same restrictions and requirements of this
31 Section insofar as applicable, as the Illinois Department of
32 State Police, and to any additional restrictions imposed by the
33 Illinois Department of State Police.

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

36 (1) any violation or inchoate violation of Section

1 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
2 Criminal Code of 1961;

3 (1.1) any violation or inchoate violation of Section
4 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
5 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
6 persons are convicted on or after July 1, 2001;

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

9 (3) (blank);

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

12 (5) any violation or inchoate violation of Article 29D
13 of the Criminal Code of 1961; or ~~or~~

14 (6) any offense that would require registration as a
15 sex offender under the Sex Offender Registration Act.

16 (g-5) (Blank).

17 (h) The Illinois Department of State Police shall be the
18 State central repository for all genetic marker grouping
19 analysis information obtained pursuant to this Act. The
20 Illinois Department of State Police may promulgate rules for
21 the form and manner of the collection of blood, saliva, or
22 tissue samples and other procedures for the operation of this
23 Act. The provisions of the Administrative Review Law shall
24 apply to all actions taken under the rules so promulgated.

25 (i) (1) A person required to provide a blood, saliva, or
26 tissue specimen shall cooperate with the collection of the
27 specimen and any deliberate act by that person intended to
28 impede, delay or stop the collection of the blood, saliva,
29 or tissue specimen is a Class A misdemeanor.

30 (2) In the event that a person's DNA sample is not
31 adequate for any reason, the person shall provide another
32 DNA sample for analysis. Duly authorized law enforcement
33 and corrections personnel may employ reasonable force in
34 cases in which an individual refuses to provide a DNA
35 sample required under this Act.

36 (j) Any person required by subsection (a) to submit

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

30 (A) Costs incurred in providing analysis and
31 genetic marker categorization as required by
32 subsection (d).

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

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

1 (D) Costs incurred in continuing research and
2 development of new techniques for analysis and genetic
3 marker categorization.

4 (E) Costs incurred in continuing education,
5 training, and professional development of forensic
6 scientists regularly employed by these laboratories.

7 (1) The failure of a person to provide a specimen, or of
8 any person or agency to collect a specimen, within the 45 day
9 period shall in no way alter the obligation of the person to
10 submit such specimen, or the authority of the Illinois
11 Department of State Police or persons designated by the
12 Department to collect the specimen, or the authority of the
13 Illinois Department of State Police to accept, analyze and
14 maintain the specimen or to maintain or upload results of
15 genetic marker grouping analysis information into a State or
16 national database.

17 (m) If any provision of this amendatory Act of the 93rd
18 General Assembly is held unconstitutional or otherwise
19 invalid, the remainder of this amendatory Act of the 93rd
20 General Assembly is not affected.

21 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
22 93-781, eff. 1-1-05; 94-16, eff. 6-13-05.)