

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 Sections 3-8-10 and 5-4-3 as follows:

6 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

7 Sec. 3-8-10. Intrastate Detainers. Except for persons
8 sentenced to death, subsection (b), (c) and (e) of Section
9 103-5 of the Code of Criminal Procedure of 1963 shall also
10 apply to persons committed to any institution or facility or
11 program of the Illinois Department of Corrections who have
12 untried complaints, charges or indictments pending in any
13 county of this State, and such person shall include in the
14 demand under subsection (b), a statement of the place of
15 present commitment, the term, and length of the remaining term,
16 the charges pending against him or her to be tried and the
17 county of the charges, and the demand shall be addressed to the
18 state's attorney of the county where he or she is charged with
19 a copy to the clerk of that court and a copy to the chief
20 administrative officer of the Department of Corrections
21 institution or facility to which he or she is committed. The
22 state's attorney shall then procure the presence of the
23 defendant for trial in his county by habeas corpus. Additional

1 time may be granted by the court for the process of bringing
2 and serving an order of habeas corpus ad prosequendum. In the
3 event that the person is not brought to trial within the
4 allotted time, then the charge for which he or she has
5 requested a speedy trial shall be dismissed. The provisions of
6 this Section do not apply to persons no longer committed to a
7 facility or program of the Illinois Department of Corrections.
8 A person serving a period of parole or mandatory supervised
9 release under the supervision of the Department of Corrections,
10 for the purpose of this Section, shall not be deemed to be
11 committed to the Department.

12 (Source: P.A. 83-346.)

13 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

17 (a) Any person convicted of, found guilty under the
18 Juvenile Court Act of 1987 for, or who received a disposition
19 of court supervision for, a qualifying offense or attempt of a
20 qualifying offense, convicted or found guilty of any offense
21 classified as a felony under Illinois law, convicted or found
22 guilty of any offense requiring registration under the Sex
23 Offender Registration Act, found guilty or given supervision
24 for any offense classified as a felony under the Juvenile Court
25 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;

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; or

13 (5) seeking transfer to or residency in Illinois under
14 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
15 Corrections and the Interstate Compact for Adult Offender
16 Supervision or the Interstate Agreements on Sexually
17 Dangerous Persons Act.

18 Notwithstanding other provisions of this Section, any
19 person incarcerated in a facility of the Illinois Department of
20 Corrections on or after August 22, 2002 shall be required to
21 submit a specimen of blood, saliva, or tissue prior to his or
22 her final discharge or release on parole or mandatory
23 supervised release, as a condition of his or her parole or
24 mandatory supervised release.

25 Notwithstanding other provisions of this Section, any
26 person sentenced to life imprisonment in a facility of the

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

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

23 (b) Any person required by paragraphs (a) (1), (a) (1.5),
24 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,
25 saliva, or tissue shall provide specimens of blood, saliva, or
26 tissue within 45 days after sentencing or disposition at a

1 collection site designated by the Illinois Department of State
2 Police.

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

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

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

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

1 groupings.

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

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

22 (d-5) To the extent that funds are available, the Illinois
23 Department of State Police shall contract with qualified
24 personnel and certified laboratories for the collection,
25 analysis, and categorization of known samples, except as
26 provided in subsection (n) of this Section.

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

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

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

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

25 (f-5) Any person who intentionally uses genetic marker
26 grouping analysis information, or any other information

1 derived from a DNA sample, beyond the authorized uses as
2 provided under this Section, or any other Illinois law, is
3 guilty of a Class 4 felony, and shall be subject to a fine of
4 not less than \$5,000.

5 (f-6) The Illinois Department of State Police may contract
6 with third parties for the purposes of implementing this
7 amendatory Act of the 93rd General Assembly, except as provided
8 in subsection (n) of this Section. Any other party contracting
9 to carry out the functions of this Section shall be subject to
10 the same restrictions and requirements of this Section insofar
11 as applicable, as the Illinois Department of State Police, and
12 to any additional restrictions imposed by the Illinois
13 Department of State Police.

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

16 (1) any violation or inchoate violation of Section
17 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
18 Criminal Code of 1961;

19 (1.1) any violation or inchoate violation of Section
20 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
21 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
22 persons are convicted on or after July 1, 2001;

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

25 (3) (blank);

26 (4) any inchoate violation of Section 9-3.1, 11-9.3,

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

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

4 (g-5) (Blank).

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

13 (i) (1) A person required to provide a blood, saliva, or
14 tissue specimen shall cooperate with the collection of the
15 specimen and any deliberate act by that person intended to
16 impede, delay or stop the collection of the blood, saliva,
17 or tissue specimen is a Class A misdemeanor.

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

24 (j) Any person required by subsection (a) to submit
25 specimens of blood, saliva, or tissue to the Illinois
26 Department of State Police for analysis and categorization into

1 genetic marker grouping, in addition to any other disposition,
2 penalty, or fine imposed, shall pay an analysis fee of \$200. If
3 the analysis fee is not paid at the time of sentencing, the
4 court shall establish a fee schedule by which the entire amount
5 of the analysis fee shall be paid in full, such schedule not to
6 exceed 24 months from the time of conviction. The inability to
7 pay this analysis fee shall not be the sole ground to
8 incarcerate the person.

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

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

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

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

1 to, the following:

2 (A) Costs incurred in providing analysis and
3 genetic marker categorization as required by
4 subsection (d).

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

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

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

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

15 (1) The failure of a person to provide a specimen, or of
16 any person or agency to collect a specimen, within the 45 day
17 period shall in no way alter the obligation of the person to
18 submit such specimen, or the authority of the Illinois
19 Department of State Police or persons designated by the
20 Department to collect the specimen, or the authority of the
21 Illinois Department of State Police to accept, analyze and
22 maintain the specimen or to maintain or upload results of
23 genetic marker grouping analysis information into a State or
24 national database.

25 (m) If any provision of this amendatory Act of the 93rd
26 General Assembly is held unconstitutional or otherwise

1 invalid, the remainder of this amendatory Act of the 93rd
2 General Assembly is not affected.

3 (n) Neither the Department of State Police, the Division of
4 Forensic Services, nor any laboratory of the Division of
5 Forensic Services may contract out forensic testing for the
6 purpose of an active investigation or a matter pending before a
7 court of competent jurisdiction without the written consent of
8 the prosecuting agency. For the purposes of this subsection
9 (n), "forensic testing" includes the analysis of physical
10 evidence in an investigation or other proceeding for the
11 prosecution of a violation of the Criminal Code of 1961 or for
12 matters adjudicated under the Juvenile Court Act of 1987, and
13 includes the use of forensic databases and databanks, including
14 DNA, firearm, and fingerprint databases, and expert testimony.

15 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
16 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
17 1-1-07.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.