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1 AMENDMENT TO SENATE BILL 2010

2 AMENDMENT NO. _____. Amend Senate Bill 2010 on page 1,
3 line 5, by replacing "Section 3-8-10" with "Sections 3-8-10 and
4 5-4-3"; and

5 on page 2, by inserting immediately below line 12 the
6 following:

7 "(730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

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

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

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

19 (1.5) found guilty or given supervision under the
20 Juvenile Court Act of 1987 for a qualifying offense or
21 attempt of a qualifying offense on or after January 1,
22 1997;

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

25 (3) convicted of a qualifying offense or attempt of a
26 qualifying offense before July 1, 1990 and is presently

1 confined as a result of such conviction in any State
2 correctional facility or county jail or is presently
3 serving a sentence of probation, conditional discharge or
4 periodic imprisonment as a result of such conviction;

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

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

13 (4.5) ordered committed as a sexually violent person on
14 or after the effective date of the Sexually Violent Persons
15 Commitment Act; or

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

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

1 mandatory supervised release.

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

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

26 (b) Any person required by paragraphs (a) (1), (a) (1.5),

1 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,
2 saliva, or tissue shall provide specimens of blood, saliva, or
3 tissue within 45 days after sentencing or disposition at a
4 collection site designated by the Illinois Department of State
5 Police.

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

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

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

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

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

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

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

25 (d-5) To the extent that funds are available, the Illinois
26 Department of State Police shall contract with qualified

1 personnel and certified laboratories for the collection,
2 analysis, and categorization of known samples, except as
3 provided in subsection (n) of this Section.

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

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

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

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

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

1 verifying the expungement is completed.

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

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

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

19 (1) any violation or inchoate violation of Section
20 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
21 Criminal Code of 1961;

22 (1.1) any violation or inchoate violation of Section
23 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
24 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
25 persons are convicted on or after July 1, 2001;

26 (2) any former statute of this State which defined a

1 felony sexual offense;

2 (3) (blank);

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

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

7 (g-5) (Blank).

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

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

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

1 (j) Any person required by subsection (a) to submit
2 specimens of blood, saliva, or tissue to the Illinois
3 Department of State Police for analysis and categorization into
4 genetic marker grouping, in addition to any other disposition,
5 penalty, or fine imposed, shall pay an analysis fee of \$200. If
6 the analysis fee is not paid at the time of sentencing, the
7 court shall establish a fee schedule by which the entire amount
8 of the analysis fee shall be paid in full, such schedule not to
9 exceed 24 months from the time of conviction. The inability to
10 pay this analysis fee shall not be the sole ground to
11 incarcerate the person.

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

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

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

23 (3) Fees deposited into the State Offender DNA
24 Identification System Fund shall be used by Illinois State
25 Police crime laboratories as designated by the Director of
26 State Police. These funds shall be in addition to any

1 allocations made pursuant to existing laws and shall be
2 designated for the exclusive use of State crime
3 laboratories. These uses may include, but are not limited
4 to, the following:

5 (A) Costs incurred in providing analysis and
6 genetic marker categorization as required by
7 subsection (d).

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

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

12 (D) Costs incurred in continuing research and
13 development of new techniques for analysis and genetic
14 marker categorization.

15 (E) Costs incurred in continuing education,
16 training, and professional development of forensic
17 scientists regularly employed by these laboratories.

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

1 national database.

2 (m) If any provision of this amendatory Act of the 93rd
3 General Assembly is held unconstitutional or otherwise
4 invalid, the remainder of this amendatory Act of the 93rd
5 General Assembly is not affected.

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

18 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
19 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
20 1-1-07.)".