

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 Unified Code of Corrections is amended
5 by 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
8 for, certain ~~qualifying~~ offenses or institutionalized as
9 sexually dangerous; ~~blood~~ 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
13 a qualifying offense, convicted or found guilty of any
14 offense classified as a felony under Illinois law, found
15 guilty or given supervision for any offense classified as a
16 felony under the Juvenile Court Act of 1987, or
17 institutionalized as a sexually dangerous person under the
18 Sexually Dangerous Persons Act, or committed as a sexually
19 violent person under the Sexually Violent Persons Commitment
20 Act shall, regardless of the sentence or disposition imposed,
21 be required to submit specimens of blood, saliva, or tissue
22 to the Illinois Department of State Police in accordance with
23 the provisions of this Section, provided such person is:

24 (1) convicted of a qualifying offense or attempt of
25 a qualifying offense on or after the effective date of
26 this amendatory Act of 1989, and sentenced to a term of
27 imprisonment, periodic imprisonment, fine, probation,
28 conditional discharge or any other form of sentence, or
29 given a disposition of court supervision for the offense,
30 or

31 (1.5) found guilty or given supervision under the

1 Juvenile Court Act of 1987 for a qualifying offense or
2 attempt of a qualifying offense on or after the effective
3 date of this amendatory Act of 1996, or

4 (2) ordered institutionalized as a sexually
5 dangerous person on or after the effective date of this
6 amendatory Act of 1989, or

7 (3) convicted of a qualifying offense or attempt of
8 a qualifying offense before the effective date of this
9 amendatory Act of 1989 and is presently confined as a
10 result of such conviction in any State correctional
11 facility or county jail or is presently serving a
12 sentence of probation, conditional discharge or periodic
13 imprisonment as a result of such conviction, or

14 (3.5) convicted or found guilty of any offense
15 classified as a felony under Illinois law or found guilty
16 or given supervision for such an offense under the
17 Juvenile Court Act of 1987, or

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

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

25 (5) seeking transfer to or residency in Illinois
26 under Sections 3-3-11 through 3-3-11.5 of the Unified
27 Code of Corrections (Interstate Compact for the
28 Supervision of Parolees and Probationers) or the
29 Interstate Agreements on Sexually Dangerous Persons Act.

30 Notwithstanding other provisions of this Section, any
31 person incarcerated in a facility of the Illinois Department
32 of Corrections on or after the effective date of this
33 amendatory Act of the 92nd General Assembly shall be required
34 to submit a specimen of blood, saliva, or tissue prior to his

1 or her release on parole or mandatory supervised release, as
2 a condition of his or her parole or mandatory supervised
3 release.

4 (a-5) Any person who was otherwise convicted of or
5 received a disposition of court supervision for any other
6 offense under the Criminal Code of 1961 ~~or any offense~~
7 ~~classified as a felony under Illinois law~~ or who was found
8 guilty or given supervision for such a violation under the
9 Juvenile Court Act of 1987, may, regardless of the sentence
10 imposed, be required by an order of the court to submit
11 specimens of blood, saliva, or tissue to the Illinois
12 Department of State Police in accordance with the provisions
13 of this Section.

14 (b) Any person required by paragraphs (a)(1), (a)(1.5),
15 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
16 saliva, or tissue shall provide specimens of blood, saliva,
17 or tissue within 45 days after sentencing or disposition at a
18 collection site designated by the Illinois Department of
19 State Police.

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

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

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

1 (d) The Illinois Department of State Police shall
2 provide all equipment and instructions necessary for the
3 collection of blood samples. The collection of samples shall
4 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
7 withdraw blood for the purposes of this Act. The samples
8 shall thereafter be forwarded to the Illinois Department of
9 State Police, Division of Forensic Services, for analysis and
10 categorizing into genetic marker groupings.

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

31 (e) The genetic marker groupings shall be maintained by
32 the Illinois Department of State Police, Division of Forensic
33 Services.

34 (f) The genetic marker grouping analysis information

1 obtained pursuant to this Act shall be confidential and shall
2 be released only to peace officers of the United States, of
3 other states or territories, of the insular possessions of
4 the United States, of foreign countries duly authorized to
5 receive the same, to all peace officers of the State of
6 Illinois and to all prosecutorial agencies. Notwithstanding
7 any other statutory provision to the contrary, all
8 information obtained under this Section shall be maintained
9 in a single State data base, which may be uploaded into a
10 national database, and may not be subject to expungement.

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

13 (1) Any violation or inchoate violation of Section
14 11-6, 11-9.1, 11-11, 11-15.1, 11-17.1, 11-18.1, 11-19.1,
15 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, or
16 12-33 of the Criminal Code of 1961, or

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

22 (2) Any former statute of this State which defined
23 a felony sexual offense, or

24 (3) Any violation of paragraph (10) of subsection
25 (b) of Section 10-5 of the Criminal Code of 1961 when the
26 sentencing court, upon a motion by the State's Attorney
27 or Attorney General, makes a finding that the child
28 luring involved an intent to commit sexual penetration or
29 sexual conduct as defined in Section 12-12 of the
30 Criminal Code of 1961, or

31 (4) Any violation or inchoate violation of Section
32 9-3.1, 11-9.3, 12-3.3, 12-4.2, 12-4.3, 12-7.3, 12-7.4,
33 18-5, 19-3, 20-1.1, or 20.5-5 of the Criminal Code of
34 1961.

1 (g-5) The Department of State Police is not required to
2 provide equipment to collect or to accept or process blood,
3 saliva, or tissue specimens from individuals convicted of any
4 offense listed in paragraph (1.1) or (4) of subsection (g),
5 until acquisition of the resources necessary to process such
6 blood, saliva, or tissue specimens, or in the case of
7 paragraph (1.1) of subsection (g) until July 1, 2003,
8 whichever is earlier.

9 Upon acquisition of necessary resources, including an
10 appropriation for the purpose of implementing this amendatory
11 Act of the 91st General Assembly, but in the case of
12 paragraph (1.1) of subsection (g) no later than July 1, 2003,
13 the Department of State Police shall notify the Department of
14 Corrections, the Administrative Office of the Illinois
15 Courts, and any other entity deemed appropriate by the
16 Department of State Police, to begin blood specimen
17 collection from individuals convicted of offenses enumerated
18 in paragraphs (1.1) and (4) of subsection (g) that the
19 Department is prepared to provide collection equipment and
20 receive and process blood, saliva, or tissue specimens from
21 individuals convicted of offenses enumerated in paragraph
22 (1.1) of subsection (g).

23 Until the Department of State Police provides
24 notification, designated collection agencies are not required
25 to collect blood specimen from individuals convicted of
26 offenses enumerated in paragraphs (1.1) and (4) of subsection
27 (g).

28 (h) The Illinois Department of State Police shall be the
29 State central repository for all genetic marker grouping
30 analysis information obtained pursuant to this Act. The
31 Illinois Department of State Police may promulgate rules for
32 the form and manner of the collection of blood, saliva, or
33 tissue samples and other procedures for the operation of this
34 Act. The provisions of the Administrative Review Law shall

1 apply to all actions taken under the rules so promulgated.

2 (i) A person required to provide a blood, saliva, or
3 tissue specimen shall cooperate with the collection of the
4 specimen and any deliberate act by that person intended to
5 impede, delay or stop the collection of the blood, saliva, or
6 tissue specimen is a Class A misdemeanor.

7 (j) Any person required by subsection (a) to submit
8 specimens of blood, saliva, or tissue to the Illinois
9 Department of State Police for analysis and categorization
10 into genetic marker grouping, in addition to any other
11 disposition, penalty, or fine imposed, shall pay an analysis
12 fee of \$500. Upon verified petition of the person, the court
13 may suspend payment of all or part of the fee if it finds
14 that the person does not have the ability to pay the fee.

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

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

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

27 (3) Fees deposited into the State Offender DNA
28 Identification System Fund shall be used by Illinois
29 State Police crime laboratories as designated by the
30 Director of State Police. These funds shall be in
31 addition to any allocations made pursuant to existing
32 laws and shall be designated for the exclusive use of
33 State crime laboratories. These uses may include, but
34 are not limited to, the following:

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

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

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

9 (D) Costs incurred in continuing research and
10 development of new techniques for analysis and
11 genetic 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 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;
26 92-40, eff. 6-29-01.)

27 Section 99. Effective date. This Act takes effect upon
28 becoming law.