

1 AMENDMENT TO SENATE BILL 2024

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2024 as follows:

3 by replacing everything after the enacting clause with the  
4 following:

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

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  
9 for, certain ~~qualifying~~ offenses or institutionalized as  
10 sexually dangerous; ~~blood~~ 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  
14 a qualifying offense, convicted or found guilty of any  
15 offense classified as a felony under Illinois law, found  
16 guilty or given supervision for any offense classified as a  
17 felony under the Juvenile Court Act of 1987, or  
18 institutionalized as a sexually dangerous person under the  
19 Sexually Dangerous Persons Act, or committed as a sexually  
20 violent person under the Sexually Violent Persons Commitment  
21 Act shall, regardless of the sentence or disposition imposed,

1 be required to submit specimens of blood, saliva, or tissue  
2 to the Illinois Department of State Police in accordance with  
3 the provisions of this Section, provided such person is:

4 (1) convicted of a qualifying offense or attempt of  
5 a qualifying offense on or after the effective date of  
6 this amendatory Act of 1989, and sentenced to a term of  
7 imprisonment, periodic imprisonment, fine, probation,  
8 conditional discharge or any other form of sentence, or  
9 given a disposition of court supervision for the offense,  
10 or

11 (1.5) found guilty or given supervision under the  
12 Juvenile Court Act of 1987 for a qualifying offense or  
13 attempt of a qualifying offense on or after the effective  
14 date of this amendatory Act of 1996, or

15 (2) ordered institutionalized as a sexually  
16 dangerous person on or after the effective date of this  
17 amendatory Act of 1989, or

18 (3) convicted of a qualifying offense or attempt of  
19 a qualifying offense before the effective date of this  
20 amendatory Act of 1989 and is presently confined as a  
21 result of such conviction in any State correctional  
22 facility or county jail or is presently serving a  
23 sentence of probation, conditional discharge or periodic  
24 imprisonment as a result of such conviction, or

25 (3.5) convicted or found guilty of any offense  
26 classified as a felony under Illinois law or found guilty  
27 or given supervision for such an offense under the  
28 Juvenile Court Act of 1987, or

29 (4) presently institutionalized as a sexually  
30 dangerous person or presently institutionalized as a  
31 person found guilty but mentally ill of a sexual offense  
32 or attempt to commit a sexual offense; or

33 (4.5) ordered committed as a sexually violent  
34 person on or after the effective date of the Sexually

1 Violent Persons Commitment Act; or

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

7 Notwithstanding other provisions of this Section, any  
8 person incarcerated in a facility of the Illinois Department  
9 of Corrections on or after the effective date of this  
10 amendatory Act of the 92nd General Assembly shall be required  
11 to submit a specimen of blood, saliva, or tissue prior to his  
12 or her release on parole or mandatory supervised release, as  
13 a condition of his or her parole or mandatory supervised  
14 release.

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

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

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

1 by the Illinois Department of State Police.

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

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

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

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

32 (d-2) The Illinois Department of State Police shall  
33 provide all equipment and instructions necessary for the  
34 collection of tissue samples. The collection of tissue

1 samples shall be performed in a medically approved manner.  
2 Only a person trained in the instructions promulgated by the  
3 Illinois State Police on collecting tissue may collect tissue  
4 for the purposes of this Section. The samples shall  
5 thereafter be forwarded to the Illinois Department of State  
6 Police, Division of Forensic Services, for analysis and  
7 categorizing into genetic marker groupings.

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

11 (f) The genetic marker grouping analysis information  
12 obtained pursuant to this Act shall be confidential and shall  
13 be released only to peace officers of the United States, of  
14 other states or territories, of the insular possessions of  
15 the United States, of foreign countries duly authorized to  
16 receive the same, to all peace officers of the State of  
17 Illinois and to all prosecutorial agencies. The genetic  
18 marker grouping analysis information obtained pursuant to  
19 this Act shall be used only for valid law enforcement  
20 identification purposes and as required by the Federal Bureau  
21 of Investigation for participation in the National DNA  
22 database. Notwithstanding any other statutory provision to  
23 the contrary, all information obtained under this Section  
24 shall be maintained in a single State data base, which may be  
25 uploaded into a national database, and which information may  
26 not be subject to expungement only as set forth in subsection  
27 (f-1).

28 (f-1) Upon receipt of notification of a reversal of a  
29 conviction based on actual innocence, or of the granting of a  
30 pardon pursuant to Section 12 of Article V of the Illinois  
31 Constitution, if that pardon document specifically states  
32 that the reason for the pardon is the actual innocence of an  
33 individual whose DNA record has been stored in the State or  
34 national DNA identification index in accordance with this

1 Section by the Illinois Department of State Police, the DNA  
 2 record shall be expunged from the DNA identification index,  
 3 and the Department shall by rule prescribe procedures to  
 4 ensure that the record and any samples, analyses, or other  
 5 documents relating to such record, whether in the possession  
 6 of the Department or any law enforcement or police agency, or  
 7 any forensic DNA laboratory, including any duplicates or  
 8 copies thereof, are destroyed and a letter is sent to the  
 9 court verifying the expungement is completed.

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

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

18 (1) Any violation or inchoate violation of Section  
 19 11-6, 11-9.1, 11-11, ~~11-15.1, 11-17.1,~~ 11-18.1, or  
 20 ~~11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15,~~  
 21 ~~12-16, or 12-33~~ of the Criminal Code of 1961, or

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

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

29 (3) (Blank), or Any violation of paragraph (10) of  
 30 subsection (b) of Section 10-5 of the Criminal Code of  
 31 1961 when the sentencing court, upon a motion by the  
 32 State's Attorney or Attorney General, makes a finding  
 33 that the child luring involved an intent to commit sexual  
 34 penetration or sexual conduct as defined in Section 12-12

1 of-the-Criminal-Code-of-1961,-or

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

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

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

27 Until--the--Department--of--State--Police--provides  
28 notification,-designated-collection-agencies-are-not-required  
29 to-collect--blood--specimen--from--individuals--convicted--of  
30 offenses-enumerated-in-paragraphs-(1.1)-and-(4)-of-subsection  
31 (g)-".

32 (h) The Illinois Department of State Police shall be the  
33 State central repository for all genetic marker grouping  
34 analysis information obtained pursuant to this Act. The

1 Illinois Department of State Police may promulgate rules for  
 2 the form and manner of the collection of blood, saliva, or  
 3 tissue samples and other procedures for the operation of this  
 4 Act. The provisions of the Administrative Review Law shall  
 5 apply to all actions taken under the rules so promulgated.

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

11 (j) Any person required by subsection (a) to submit  
 12 specimens of blood, saliva, or tissue to the Illinois  
 13 Department of State Police for analysis and categorization  
 14 into genetic marker grouping, in addition to any other  
 15 disposition, penalty, or fine imposed, shall pay an analysis  
 16 fee of \$200 \$500. If the analysis fee is not paid at the  
 17 time of sentencing, the court shall establish a fee schedule  
 18 by which the entire amount of the analysis fee shall be paid  
 19 in full, such schedule not to exceed 24 months from the time  
 20 of conviction. The inability to pay this analysis fee shall  
 21 not be the sole ground to incarcerate the person. Upon  
 22 verified--petition--of--the--person,--the--court--may--suspend  
 23 payment--of--all--or--part--of--the--fee--if--it--finds--that--the--person  
 24 does--not--have--the--ability--to--pay--the--fee.

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

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

30 (2) All fees shall be collected by the clerk of the  
 31 court and forwarded to the State Offender DNA  
 32 Identification System Fund for deposit. The clerk of the  
 33 circuit court may retain the amount of \$10 from each  
 34 collected analysis fee to offset administrative costs

1 incurred in carrying out the clerk's responsibilities  
2 under this Section.

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

11 (A) Costs incurred in providing analysis and  
12 genetic marker categorization as required by  
13 subsection (d).

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

16 (C) Costs incurred in the purchase and  
17 maintenance of equipment for use in performing  
18 analyses.

19 (D) Costs incurred in continuing research and  
20 development of new techniques for analysis and  
21 genetic marker categorization.

22 (E) Costs incurred in continuing education,  
23 training, and professional development of forensic  
24 scientists regularly employed by these laboratories.

25 (1) The failure of a person to provide a specimen, or of  
26 any person or agency to collect a specimen, within the 45 day  
27 period shall in no way alter the obligation of the person to  
28 submit such specimen, or the authority of the Illinois  
29 Department of State Police or persons designated by the  
30 Department to collect the specimen, or the authority of the  
31 Illinois Department of State Police to accept, analyze and  
32 maintain the specimen or to maintain or upload results of  
33 genetic marker grouping analysis information into a State or  
34 national database.

1 (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;  
2 92-40, eff. 6-29-01.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".