



Rep. Susana A. Mendoza

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LRB097 08079 RLC 53570 a

1 AMENDMENT TO HOUSE BILL 3238

2 AMENDMENT NO. _____. Amend House Bill 3238, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Unified Code of Corrections is amended by
6 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. Specimens ~~Persons convicted of, or found~~
9 ~~delinquent for, certain offenses or institutionalized as~~
10 ~~sexually dangerous; 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; or

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 (a-1) Any ~~Notwithstanding other provisions of this~~
22 ~~Section,~~ any person incarcerated in a facility of the Illinois
23 Department of Corrections or the Illinois Department of
24 Juvenile Justice on or after August 22, 2002, whether for a
25 term of years, natural life, or a sentence of death, who has
26 not yet submitted a specimen sample of blood, saliva, or tissue

1 shall be required to submit a specimen of blood, saliva, or
2 tissue prior to his or her final discharge, or release on
3 parole or mandatory supervised release, as a condition of his
4 or her parole or mandatory supervised release, or within 6
5 months from August 13, 2009 (the effective date of Public Act
6 96-426), whichever is sooner. A person incarcerated on or after
7 August 13, 2009 (the effective date of Public Act 96-426) shall
8 be required to submit a specimen ~~sample~~ within 45 days of
9 incarceration, or prior to his or her final discharge, or
10 release on parole or mandatory supervised release, as a
11 condition of his or her parole or mandatory supervised release,
12 whichever is sooner. These specimens shall be placed into the
13 State or national DNA database, to be used in accordance with
14 other provisions of this Section, by the Illinois State Police.

15 (a-2) ~~Any Notwithstanding other provisions of this~~
16 ~~Section, any~~ person sentenced to life imprisonment in a
17 facility of the Illinois Department of Corrections after the
18 effective date of this amendatory Act of the 94th General
19 Assembly or sentenced to death after the effective date of this
20 amendatory Act of the 94th General Assembly shall be required
21 to provide a specimen of blood, saliva, or tissue within 45
22 days after sentencing or disposition at a collection site
23 designated by the Illinois Department of State Police. Any
24 person serving a sentence of life imprisonment in a facility of
25 the Illinois Department of Corrections on the effective date of
26 this amendatory Act of the 94th General Assembly or any person

1 who is under a sentence of death on the effective date of this
2 amendatory Act of the 94th General Assembly shall be required
3 to provide a specimen of blood, saliva, or tissue upon request
4 at a collection site designated by the Illinois Department of
5 State Police.

6 (a-3) Any person seeking transfer to or residency in
7 Illinois under Sections 3-3-11.05 through 3-3-11.5 of this
8 Code, the Interstate Compact for Adult Offender Supervision, or
9 the Interstate Agreements on Sexually Dangerous Persons Act
10 shall be required to provide a specimen of blood, saliva, or
11 tissue within 45 days after transfer to or residency in
12 Illinois at a collection site designated by the Illinois
13 Department of State Police.

14 (a-3.1) Any person required by an order of the court to
15 submit a DNA specimen shall be required to provide a specimen
16 of blood, saliva, or tissue within 45 days after the court
17 order at a collection site designated by the Illinois
18 Department of State Police.

19 (a-3.2) On or after the effective date of this amendatory
20 Act of the 97th General Assembly, any person arrested for any
21 of the following offenses, after an indictment has been
22 returned by a grand jury, or following a hearing pursuant to
23 Section 109-3 of the Code of Criminal Procedure of 1963 and a
24 judge finds there is probable cause to believe the arrestee has
25 committed one of the designated offenses, or an arrestee has
26 waived a preliminary hearing shall be required to provide a

1 specimen of blood, saliva, or tissue within 14 days after such
2 indictment or hearing at a collection site designated by the
3 Illinois Department of State Police:

4 (A) first degree murder;

5 (B) home invasion;

6 (C) predatory criminal sexual assault of a child;

7 (D) aggravated criminal sexual assault; or

8 (E) criminal sexual assault.

9 (a-3.3) Any person required to register as a sex offender
10 under the Sex Offender Registration Act, regardless of the date
11 of conviction as set forth in subsection (c-5.2) shall be
12 required to provide a specimen of blood, saliva, or tissue
13 within the time period prescribed in subsection (c-5.2) at a
14 collection site designated by the Illinois Department of State
15 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

1 tissue within 45 days after sentencing or disposition at a
2 collection site designated by the Illinois Department of State
3 Police.

4 (c) Any person required by paragraphs (a)(3), (a)(4), and
5 (a)(4.5) to provide specimens of blood, saliva, or tissue shall
6 be required to provide such specimens ~~samples~~ prior to final
7 discharge or within 6 months from August 13, 2009 (the
8 effective date of Public Act 96-426), whichever is sooner.
9 These specimens shall be placed into the State or national DNA
10 database, to be used in accordance with other provisions of
11 this Act, by the Illinois State Police.

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

18 (c-5.2) Unless it is determined that a registered sex
19 offender has previously submitted a specimen of blood, saliva,
20 or tissue that has been placed into the State DNA database, a
21 person registering as a sex offender shall be required to
22 submit a specimen at the time of his or her initial
23 registration pursuant to the Sex Offender Registration Act or,
24 for a person registered as a sex offender on or prior to the
25 effective date of this amendatory Act of the 97th General
26 Assembly, within one year of the effective date of this

1 amendatory Act or at the time of his or her next required
2 registration.

3 (c-6) The Illinois Department of State Police may determine
4 which type of specimen or specimens, blood, saliva, or tissue,
5 is acceptable for submission to the Division of Forensic
6 Services for analysis. The Illinois Department of State Police
7 may require the submission of fingerprints from anyone required
8 to give a specimen under this Act.

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

19 (d-1) The Illinois Department of State Police shall provide
20 all equipment and instructions necessary for the collection of
21 saliva specimens ~~samples~~. The collection of saliva specimens
22 ~~samples~~ shall be performed in a medically approved manner. Only
23 a person trained in the instructions promulgated by the
24 Illinois State Police on collecting saliva may collect saliva
25 for the purposes of this Section. The specimens ~~samples~~ shall
26 thereafter be forwarded to the Illinois Department of State

1 Police, Division of Forensic Services, for analysis and
2 categorizing into genetic marker groupings.

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

13 (d-5) To the extent that funds are available, the Illinois
14 Department of State Police shall contract with qualified
15 personnel and certified laboratories for the collection,
16 analysis, and categorization of known specimens ~~samples~~,
17 except as provided in subsection (n) of this Section.

18 (d-6) Agencies designated by the Illinois Department of
19 State Police and the Illinois Department of State Police may
20 contract with third parties to provide for the collection or
21 analysis of DNA, or both, of an offender's blood, saliva, and
22 tissue specimens ~~samples~~, except as provided in subsection (n)
23 of this Section.

24 (e) The genetic marker groupings shall be maintained by the
25 Illinois Department of State Police, Division of Forensic
26 Services.

1 (f) The genetic marker grouping analysis information
2 obtained pursuant to this Act shall be confidential and shall
3 be released only to peace officers of the United States, of
4 other states or territories, of the insular possessions of the
5 United States, of foreign countries duly authorized to receive
6 the same, to all peace officers of the State of Illinois and to
7 all prosecutorial agencies, and to defense counsel as provided
8 by Section 116-5 of the Code of Criminal Procedure of 1963. The
9 genetic marker grouping analysis information obtained pursuant
10 to this Act shall be used only for (i) valid law enforcement
11 identification purposes and as required by the Federal Bureau
12 of Investigation for participation in the National DNA
13 database, (ii) technology validation purposes, (iii) a
14 population statistics database, (iv) quality assurance
15 purposes if personally identifying information is removed, (v)
16 assisting in the defense of the criminally accused pursuant to
17 Section 116-5 of the Code of Criminal Procedure of 1963, or
18 (vi) identifying and assisting in the prosecution of a person
19 who is suspected of committing a sexual assault as defined in
20 Section 1a of the Sexual Assault Survivors Emergency Treatment
21 Act. Notwithstanding any other statutory provision to the
22 contrary, all information obtained under this Section shall be
23 maintained in a single State data base, which may be uploaded
24 into a national database, and which information may be subject
25 to expungement only as set forth in subsection (f-1).

26 (f-1) Upon receipt of notification of a reversal of a

1 conviction based on actual innocence, or of the granting of a
2 pardon pursuant to Section 12 of Article V of the Illinois
3 Constitution, if that pardon document specifically states that
4 the reason for the pardon is the actual innocence of an
5 individual whose DNA record has been stored in the State or
6 national DNA identification index in accordance with this
7 Section by the Illinois Department of State Police, the DNA
8 record shall be expunged from the DNA identification index, and
9 the Department shall by rule prescribe procedures to ensure
10 that the record and any specimens ~~samples~~, analyses, or other
11 documents relating to such record, whether in the possession of
12 the Department or any law enforcement or police agency, or any
13 forensic DNA laboratory, including any duplicates or copies
14 thereof, are destroyed and a letter is sent to the court
15 verifying the expungement is completed. For specimens required
16 to be collected prior to conviction, unless the individual has
17 other charges or convictions that require submission of a
18 specimen, the DNA record for an individual shall be expunged
19 from the DNA identification databases and the specimen
20 destroyed upon receipt of a certified copy of a final court
21 order for each charge against an individual in which the charge
22 has been dismissed, resulted in acquittal, or that the charge
23 was not filed within the applicable time period. The Department
24 shall by rule prescribe procedures to ensure that the record
25 and any specimens in the possession or control of the
26 Department 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 specimen ~~sample~~, beyond the authorized uses
5 as 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 specimens ~~samples~~ and other procedures for the operation
14 of this Act. The provisions of the Administrative Review Law
15 shall apply to all actions taken under the rules so
16 promulgated.

17 (i) (1) A person required to provide a blood, saliva, or
18 tissue specimen shall cooperate with the collection of the
19 specimen and any deliberate act by that person intended to
20 impede, delay or stop the collection of the blood, saliva,
21 or tissue specimen is a Class 4 felony ~~A misdemeanor~~.

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

1 provide a DNA specimen ~~sample~~ required under this Act.

2 (j) Any person required by subsection (a), or any person
3 who was previously required by subsection (a-3.2), to submit
4 specimens of blood, saliva, or tissue to the Illinois
5 Department of State Police for analysis and categorization into
6 genetic marker grouping, in addition to any other disposition,
7 penalty, or fine imposed, shall pay an analysis fee of \$250
8 ~~\$200~~. If the analysis fee is not paid at the time of
9 sentencing, the court shall establish a fee schedule by which
10 the entire amount of the analysis fee shall be paid in full,
11 such schedule not to exceed 24 months from the time of
12 conviction. The inability to pay this analysis fee shall not be
13 the sole ground to incarcerate the person.

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

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

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

25 (3) Fees deposited into the State Offender DNA
26 Identification System Fund shall be used by Illinois State

1 Police crime laboratories as designated by the Director of
2 State Police. These funds shall be in addition to any
3 allocations made pursuant to existing laws and shall be
4 designated for the exclusive use of State crime
5 laboratories. These uses may include, but are not limited
6 to, the following:

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

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

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

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

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

20 (1) The failure of a person to provide a specimen, or of
21 any person or agency to collect a specimen, ~~within the 45 day~~
22 ~~period~~ shall in no way alter the obligation of the person to
23 submit such specimen, or the authority of the Illinois
24 Department of State Police or persons designated by the
25 Department to collect the specimen, or the authority of the
26 Illinois Department of State Police to accept, analyze and

1 maintain the specimen or to maintain or upload results of
2 genetic marker grouping analysis information into a State or
3 national database.

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

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

20 (o) Mistake does not invalidate a database match. The
21 detention, arrest, or conviction of a person based upon a
22 database match or database information is not invalidated if it
23 is determined that the specimen was obtained or placed in the
24 database by mistake.

25 (p) This Section may be referred to as the Illinois DNA
26 Database Law of 2011.

1 (Source: P.A. 96-426, eff. 8-13-09; 96-642, eff. 8-24-09;
2 96-1000, eff. 7-2-10.)

3 Section 10. The Sex Offender Registration Act is amended by
4 changing Section 8 as follows:

5 (730 ILCS 150/8) (from Ch. 38, par. 228)

6 Sec. 8. Registration and DNA submission requirements
7 ~~Requirements.~~

8 (a) Registration. Registration as required by this Article
9 shall consist of a statement in writing signed by the person
10 giving the information that is required by the Department of
11 State Police, which may include the fingerprints and must
12 include a current photograph of the person, to be updated
13 annually. If the sex offender is a child sex offender as
14 defined in Section 11-9.3 or 11-9.4 of the Criminal Code of
15 1961, he or she shall sign a statement that he or she
16 understands that according to Illinois law as a child sex
17 offender he or she may not reside within 500 feet of a school,
18 park, or playground. The offender may also not reside within
19 500 feet of a facility providing services directed exclusively
20 toward persons under 18 years of age unless the sex offender
21 meets specified exemptions. The registration information must
22 include whether the person is a sex offender as defined in the
23 Sex Offender Community Notification Law. Within 3 days, the
24 registering law enforcement agency shall forward any required

1 information to the Department of State Police. The registering
2 law enforcement agency shall enter the information into the Law
3 Enforcement Agencies Data System (LEADS) as provided in
4 Sections 6 and 7 of the Intergovernmental Missing Child
5 Recovery Act of 1984.

6 (b) DNA submission. Every person registering as a sex
7 offender pursuant to this Act, regardless of the date of
8 conviction or the date of initial registration who is required
9 to submit specimens of blood, saliva, or tissue for DNA
10 analysis as required by subsection (a) of Section 5-4-3 of the
11 Unified Code of Corrections shall submit the specimens as
12 required by that Section. Registered sex offenders who have
13 previously submitted a DNA specimen which has been uploaded to
14 the Illinois DNA database shall not be required to submit an
15 additional specimen pursuant to this Section.

16 (Source: P.A. 93-979, eff. 8-20-04; 94-166, eff. 1-1-06;
17 94-945, eff. 6-27-06.)

18 Section 97. Severability. The provisions of this Act are
19 severable under Section 1.31 of the Statute on Statutes."