



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2995

Introduced 2/4/2014, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-3

Amends the Code of Criminal Procedure of 1963. Permits inclusion in a defendant's prima facie case for forensic DNA testing of evidence that was not subject to testing at the time of his or her trial or guilty plea that identity was an issue in the investigation that resulted in his or her conviction, even if he or she confessed or admitted to the crime. Provides that upon receipt of a motion for post-conviction DNA testing, the court shall order the State to prepare an inventory of the evidence related to the case and issue a copy of the inventory to the prosecution, the petitioner, and the court. Provides that when a motion is filed to vacate based on favorable post-conviction DNA testing results, the State may, upon request, reactivate victim services for the victim of the crime during the pendency of the proceedings, and, as determined by the court after consultation with the victim or victim advocate, or both, following final adjudication of the case. Effective immediately.

LRB098 18301 RLC 54878 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Code of Criminal Procedure of 1963 is
5 amended by changing Section 116-3 as follows:

6 (725 ILCS 5/116-3)

7 Sec. 116-3. Motion for fingerprint, Integrated Ballistic
8 Identification System, or forensic testing not available at
9 trial or guilty plea regarding actual innocence.

10 (a) A defendant may make a motion before the trial court
11 that entered the judgment of conviction in his or her case for
12 the performance of fingerprint, Integrated Ballistic
13 Identification System, or forensic DNA testing, including
14 comparison analysis of genetic marker groupings of the evidence
15 collected by criminal justice agencies pursuant to the alleged
16 offense, to those of the defendant, to those of other forensic
17 evidence, and to those maintained under subsection (f) of
18 Section 5-4-3 of the Unified Code of Corrections, on evidence
19 that was secured in relation to the trial or guilty plea which
20 resulted in his or her conviction, and:

21 (1) was not subject to the testing which is now
22 requested at the time of trial or guilty plea; or

23 (2) although previously subjected to testing, can be

1 subjected to additional testing utilizing a method that was
2 not scientifically available at the time of trial or guilty
3 plea that provides a reasonable likelihood of more
4 probative results. Reasonable notice of the motion shall be
5 served upon the State.

6 (b) The defendant must present a prima facie case that:

7 (1) identity was the issue in the investigation or
8 trial which resulted in his or her conviction, even if he
9 or she confessed or admitted to the crime; and

10 (2) the evidence to be tested has been subject to a
11 chain of custody sufficient to establish that it has not
12 been substituted, tampered with, replaced, or altered in
13 any material aspect.

14 (c) The trial court shall allow the testing under
15 reasonable conditions designed to protect the State's
16 interests in the integrity of the evidence and the testing
17 process upon a determination that:

18 (1) the result of the testing has the scientific
19 potential to produce new, noncumulative evidence
20 materially relevant to the defendant's assertion of actual
21 innocence even though the results may not completely
22 exonerate the defendant;

23 (2) the testing requested employs a scientific method
24 generally accepted within the relevant scientific
25 community.

26 (d) If evidence previously tested pursuant to this Section

1 reveals an unknown fingerprint from the crime scene that does
2 not match the defendant or the victim, the order of the Court
3 shall direct the prosecuting authority to request the Illinois
4 State Police Bureau of Forensic Science to submit the unknown
5 fingerprint evidence into the FBI's Integrated Automated
6 Fingerprint Identification System (AIFIS) for identification.

7 (e) Upon receipt of a motion for post-conviction DNA
8 testing, the court shall order the State to prepare an
9 inventory of the evidence related to the case and issue a copy
10 of the inventory to the prosecution, the petitioner, and the
11 court.

12 (f) When a motion is filed to vacate based on favorable
13 post-conviction DNA testing results, the State may, upon
14 request, reactivate victim services for the victim of the crime
15 during the pendency of the proceedings, and, as determined by
16 the court after consultation with the victim or victim
17 advocate, or both, following final adjudication of the case.

18 (Source: P.A. 95-688, eff. 10-23-07.)

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