

AN ACT concerning criminal law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

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

(a) Any person convicted of, found guilty under the Juvenile Court Act of 1987 for, or who received a disposition of court supervision for, a qualifying offense or attempt of a qualifying offense, convicted or found guilty of any offense classified as a felony under Illinois law, convicted or found guilty of any offense requiring registration under the Sex Offender Registration Act, found guilty or given supervision for any offense classified as a felony under the Juvenile Court Act of 1987, convicted or found guilty of, under the Juvenile Court Act of 1987, any offense requiring registration under the Sex Offender Registration Act, or institutionalized as a sexually dangerous person under the Sexually Dangerous Persons Act, or committed as a sexually violent person under the Sexually Violent Persons Commitment Act shall, regardless of

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

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

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

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

(3) convicted of a qualifying offense or attempt of a qualifying offense before July 1, 1990 and is presently confined as a result of such conviction in any State correctional facility or county jail or is presently serving a sentence of probation, conditional discharge or periodic imprisonment as a result of such conviction;

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

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

(4.5) ordered committed as a sexually violent person on or after the effective date of the Sexually Violent Persons Commitment Act. ~~or~~

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

(a-1) Any ~~Notwithstanding other provisions of this Section, any~~ person incarcerated in a facility of the Illinois Department of Corrections or the Illinois Department of Juvenile Justice on or after August 22, 2002, whether for a term of years, natural life, or a sentence of death, who has not yet submitted a specimen ~~sample~~ of blood, saliva, or tissue shall be required to submit a specimen of blood, saliva, or tissue prior to his or her final discharge, or release on parole or mandatory supervised release, as a condition of his or her parole or mandatory supervised release, or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner. A person incarcerated on or after August 13, 2009 (the effective date of Public Act 96-426) shall be required to submit a specimen ~~sample~~ within 45 days of

incarceration, or prior to his or her final discharge, or release on parole or mandatory supervised release, as a condition of his or her parole or mandatory supervised release, whichever is sooner. These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Section, by the Illinois State Police.

(a-2) Any ~~Notwithstanding other provisions of this Section, any~~ person sentenced to life imprisonment in a facility of the Illinois Department of Corrections after the effective date of this amendatory Act of the 94th General Assembly or sentenced to death after the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue within 45 days after sentencing or disposition at a collection site designated by the Illinois Department of State Police. Any person serving a sentence of life imprisonment in a facility of the Illinois Department of Corrections on the effective date of this amendatory Act of the 94th General Assembly or any person who is under a sentence of death on the effective date of this amendatory Act of the 94th General Assembly shall be required to provide a specimen of blood, saliva, or tissue upon request at a collection site designated by the Illinois Department of State Police.

(a-3) Any person seeking transfer to or residency in Illinois under Sections 3-3-11.05 through 3-3-11.5 of this Code, the Interstate Compact for Adult Offender Supervision, or

the Interstate Agreements on Sexually Dangerous Persons Act shall be required to provide a specimen of blood, saliva, or tissue within 45 days after transfer to or residency in Illinois at a collection site designated by the Illinois Department of State Police.

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

(a-3.2) On or after the effective date of this amendatory Act of the 97th General Assembly, any person arrested for any of the following offenses, after an indictment has been returned by a grand jury, or following a hearing pursuant to Section 109-3 of the Code of Criminal Procedure of 1963 and a judge finds there is probable cause to believe the arrestee has committed one of the designated offenses, or an arrestee has waived a preliminary hearing shall be required to provide a specimen of blood, saliva, or tissue within 14 days after such indictment or hearing at a collection site designated by the Illinois Department of State Police:

- (A) first degree murder;
- (B) home invasion;
- (C) predatory criminal sexual assault of a child;
- (D) aggravated criminal sexual assault; or
- (E) criminal sexual assault.

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

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

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

(c) Any person required by paragraphs (a) (3), (a) (4), and (a) (4.5) to provide specimens of blood, saliva, or tissue shall be required to provide such specimens ~~samples~~ prior to final discharge or within 6 months from August 13, 2009 (the effective date of Public Act 96-426), whichever is sooner.

These specimens shall be placed into the State or national DNA database, to be used in accordance with other provisions of this Act, by the Illinois State Police.

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

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

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

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

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

(d-2) The Illinois Department of State Police shall provide all equipment and instructions necessary for the collection of tissue specimens ~~samples~~. The collection of tissue specimens ~~samples~~ shall be performed in a medically approved manner. Only a person trained in the instructions promulgated by the Illinois State Police on collecting tissue may collect tissue

for the purposes of this Section. The specimens ~~samples~~ shall thereafter be forwarded to the Illinois Department of State Police, Division of Forensic Services, for analysis and categorizing into genetic marker groupings.

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

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

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

(f) The genetic marker grouping analysis information obtained pursuant to this Act shall be confidential and shall be released only to peace officers of the United States, of other states or territories, of the insular possessions of the United States, of foreign countries duly authorized to receive the same, to all peace officers of the State of Illinois and to all prosecutorial agencies, and to defense counsel as provided by Section 116-5 of the Code of Criminal Procedure of 1963. The

genetic marker grouping analysis information obtained pursuant to this Act shall be used only for (i) valid law enforcement identification purposes and as required by the Federal Bureau of Investigation for participation in the National DNA database, (ii) technology validation purposes, (iii) a population statistics database, (iv) quality assurance purposes if personally identifying information is removed, (v) assisting in the defense of the criminally accused pursuant to Section 116-5 of the Code of Criminal Procedure of 1963, or (vi) identifying and assisting in the prosecution of a person who is suspected of committing a sexual assault as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act. Notwithstanding any other statutory provision to the contrary, all information obtained under this Section shall be maintained in a single State data base, which may be uploaded into a national database, and which information may be subject to expungement only as set forth in subsection (f-1).

(f-1) Upon receipt of notification of a reversal of a conviction based on actual innocence, or of the granting of a pardon pursuant to Section 12 of Article V of the Illinois Constitution, if that pardon document specifically states that the reason for the pardon is the actual innocence of an individual whose DNA record has been stored in the State or national DNA identification index in accordance with this Section by the Illinois Department of State Police, the DNA record shall be expunged from the DNA identification index, and

the Department shall by rule prescribe procedures to ensure that the record and any specimens ~~samples~~, analyses, or other documents relating to such record, whether in the possession of the Department or any law enforcement or police agency, or any forensic DNA laboratory, including any duplicates or copies thereof, are destroyed and a letter is sent to the court verifying the expungement is completed. For specimens required to be collected prior to conviction, unless the individual has other charges or convictions that require submission of a specimen, the DNA record for an individual shall be expunged from the DNA identification databases and the specimen destroyed upon receipt of a certified copy of a final court order for each charge against an individual in which the charge has been dismissed, resulted in acquittal, or that the charge was not filed within the applicable time period. The Department shall by rule prescribe procedures to ensure that the record and any specimens in the possession or control of the Department are destroyed and a letter is sent to the court verifying the expungement is completed.

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

(f-6) The Illinois Department of State Police may contract

with third parties for the purposes of implementing this amendatory Act of the 93rd General Assembly, except as provided in subsection (n) of this Section. Any other party contracting to carry out the functions of this Section shall be subject to the same restrictions and requirements of this Section insofar as applicable, as the Illinois Department of State Police, and to any additional restrictions imposed by the Illinois Department of State Police.

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

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

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

(2) any former statute of this State which defined a felony sexual offense;

(3) (blank);

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

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

(g-5) (Blank).

(h) The Illinois Department of State Police shall be the

State central repository for all genetic marker grouping analysis information obtained pursuant to this Act. The Illinois Department of State Police may promulgate rules for the form and manner of the collection of blood, saliva, or tissue specimens ~~samples~~ and other procedures for the operation of this Act. The provisions of the Administrative Review Law shall apply to all actions taken under the rules so promulgated.

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

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

(j) Any person required by subsection (a), or any person who was previously required by subsection (a-3.2), to submit specimens of blood, saliva, or tissue to the Illinois Department of State Police for analysis and categorization into genetic marker grouping, in addition to any other disposition, penalty, or fine imposed, shall pay an analysis fee of \$250 ~~\$200~~. If the analysis fee is not paid at the time of

sentencing, the court shall establish a fee schedule by which the entire amount of the analysis fee shall be paid in full, such schedule not to exceed 24 months from the time of conviction. The inability to pay this analysis fee shall not be the sole ground to incarcerate the person.

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

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

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

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

(A) Costs incurred in providing analysis and genetic marker categorization as required by

subsection (d).

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

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

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

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

(l) The failure of a person to provide a specimen, or of any person or agency to collect a specimen, ~~within the 45-day period~~ shall in no way alter the obligation of the person to submit such specimen, or the authority of the Illinois Department of State Police or persons designated by the Department to collect the specimen, or the authority of the Illinois Department of State Police to accept, analyze and maintain the specimen or to maintain or upload results of genetic marker grouping analysis information into a State or national database.

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

(n) Neither the Department of State Police, the Division of

Forensic Services, nor any laboratory of the Division of Forensic Services may contract out forensic testing for the purpose of an active investigation or a matter pending before a court of competent jurisdiction without the written consent of the prosecuting agency. For the purposes of this subsection (n), "forensic testing" includes the analysis of physical evidence in an investigation or other proceeding for the prosecution of a violation of the Criminal Code of 1961 or for matters adjudicated under the Juvenile Court Act of 1987, and includes the use of forensic databases and databanks, including DNA, firearm, and fingerprint databases, and expert testimony.

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

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

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

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

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

Sec. 8. Registration and DNA submission requirements

~~Requirements.~~

(a) Registration. Registration as required by this Article shall consist of a statement in writing signed by the person giving the information that is required by the Department of State Police, which may include the fingerprints and must include a current photograph of the person, to be updated annually. If the sex offender is a child sex offender as defined in Section 11-9.3 or 11-9.4 of the Criminal Code of 1961, he or she shall sign a statement that he or she understands that according to Illinois law as a child sex offender he or she may not reside within 500 feet of a school, park, or playground. The offender may also not reside within 500 feet of a facility providing services directed exclusively toward persons under 18 years of age unless the sex offender meets specified exemptions. The registration information must include whether the person is a sex offender as defined in the Sex Offender Community Notification Law. Within 3 days, the registering law enforcement agency shall forward any required information to the Department of State Police. The registering law enforcement agency shall enter the information into the Law Enforcement Agencies Data System (LEADS) as provided in Sections 6 and 7 of the Intergovernmental Missing Child Recovery Act of 1984.

(b) DNA submission. Every person registering as a sex offender pursuant to this Act, regardless of the date of conviction or the date of initial registration who is required

to submit specimens of blood, saliva, or tissue for DNA analysis as required by subsection (a) of Section 5-4-3 of the Unified Code of Corrections shall submit the specimens as required by that Section. Registered sex offenders who have previously submitted a DNA specimen which has been uploaded to the Illinois DNA database shall not be required to submit an additional specimen pursuant to this Section.

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

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