



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3880

Introduced 1/21/2022, by Sen. Rachelle Crowe

#### SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4-3

from Ch. 38, par. 1005-4-3

Amends the Unified Code of Corrections. Provides that on or after January 1, 2023, any person arrested for any felony (rather than first degree murder, home invasion, predatory criminal sexual assault of a child, aggravated criminal sexual assault, or criminal sexual assault) shall be required to provide a specimen of blood, saliva, or tissue, to be collected by the arresting agency at booking. Provides that within 14 days following the preliminary examination in which a judge finds there is probable cause to believe the arrestee has committed an offense requiring the submission of the specimen, or an arrestee has waived a preliminary hearing, or the arrest was made under a warrant supported by probable cause that the arrestee committed an offense requiring the submission of the specimen, the arresting agency shall submit the specimen to the Illinois State Police. Provides that as soon as practicable following the hearing, if the judge finds there is no probable cause to believe the arrestee has committed the offense, the arresting agency shall cause the specimen to be destroyed.

LRB102 24216 RLC 33445 b

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 Unified Code of Corrections is amended by  
5 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. Specimens; genetic marker groups.

8 (a) Any person convicted of, found guilty under the  
9 Juvenile Court Act of 1987 for, or who received a disposition  
10 of court supervision for, a qualifying offense or attempt of a  
11 qualifying offense, convicted or found guilty of any offense  
12 classified as a felony under Illinois law, convicted or found  
13 guilty of any offense requiring registration under the Sex  
14 Offender Registration Act, found guilty or given supervision  
15 for any offense classified as a felony under the Juvenile  
16 Court Act of 1987, convicted or found guilty of, under the  
17 Juvenile Court Act of 1987, any offense requiring registration  
18 under the Sex Offender Registration Act, or institutionalized  
19 as a sexually dangerous person under the Sexually Dangerous  
20 Persons Act, or committed as a sexually violent person under  
21 the Sexually Violent Persons Commitment Act shall, regardless  
22 of the sentence or disposition imposed, be required to submit  
23 specimens of blood, saliva, or tissue to the Illinois State

1 Police in accordance with the provisions of this Section,  
2 provided such person is:

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

9 (1.5) found guilty or given supervision under the  
10 Juvenile Court Act of 1987 for a qualifying offense or  
11 attempt of a qualifying offense on or after January 1,  
12 1997;

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

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

21 (3.5) convicted or found guilty of any offense  
22 classified as a felony under Illinois law or found guilty  
23 or given supervision for such an offense under the  
24 Juvenile Court Act of 1987 on or after August 22, 2002;

25 (4) presently institutionalized as a sexually  
26 dangerous person or presently institutionalized as a

1 person found guilty but mentally ill of a sexual offense  
2 or attempt to commit a sexual offense; or

3 (4.5) ordered committed as a sexually violent person  
4 on or after the effective date of the Sexually Violent  
5 Persons Commitment Act.

6 (a-1) Any person incarcerated in a facility of the  
7 Illinois Department of Corrections or the Illinois Department  
8 of Juvenile Justice on or after August 22, 2002, whether for a  
9 term of years, natural life, or a sentence of death, who has  
10 not yet submitted a specimen of blood, saliva, or tissue shall  
11 be required to submit a specimen of blood, saliva, or tissue  
12 prior to his or her final discharge, or release on parole,  
13 aftercare release, or mandatory supervised release, as a  
14 condition of his or her parole, aftercare release, or  
15 mandatory supervised release, or within 6 months from August  
16 13, 2009 (the effective date of Public Act 96-426), whichever  
17 is sooner. A person incarcerated on or after August 13, 2009  
18 (the effective date of Public Act 96-426) shall be required to  
19 submit a specimen within 45 days of incarceration, or prior to  
20 his or her final discharge, or release on parole, aftercare  
21 release, or mandatory supervised release, as a condition of  
22 his or her parole, aftercare release, or mandatory supervised  
23 release, whichever is sooner. These specimens shall be placed  
24 into the State or national DNA database, to be used in  
25 accordance with other provisions of this Section, by the  
26 Illinois State Police.

1           (a-2) Any person sentenced to life imprisonment in a  
2 facility of the Illinois Department of Corrections after the  
3 effective date of this amendatory Act of the 94th General  
4 Assembly or sentenced to death after the effective date of  
5 this amendatory Act of the 94th General Assembly shall be  
6 required to provide a specimen of blood, saliva, or tissue  
7 within 45 days after sentencing or disposition at a collection  
8 site designated by the Illinois State Police. Any person  
9 serving a sentence of life imprisonment in a facility of the  
10 Illinois Department of Corrections on the effective date of  
11 this amendatory Act of the 94th General Assembly or any person  
12 who is under a sentence of death on the effective date of this  
13 amendatory Act of the 94th General Assembly shall be required  
14 to provide a specimen of blood, saliva, or tissue upon request  
15 at a collection site designated by the Illinois State Police.

16           (a-3) Any person seeking transfer to or residency in  
17 Illinois under Sections 3-3-11.05 through 3-3-11.5 of this  
18 Code, the Interstate Compact for Adult Offender Supervision,  
19 or the Interstate Agreements on Sexually Dangerous Persons Act  
20 shall be required to provide a specimen of blood, saliva, or  
21 tissue within 45 days after transfer to or residency in  
22 Illinois at a collection site designated by the Illinois State  
23 Police.

24           (a-3.1) Any person required by an order of the court to  
25 submit a DNA specimen shall be required to provide a specimen  
26 of blood, saliva, or tissue within 45 days after the court

1 order at a collection site designated by the Illinois State  
2 Police.

3 (a-3.2) On or after January 1, 2012 (the effective date of  
4 Public Act 97-383), any person arrested for first degree  
5 murder, home invasion, predatory criminal sexual assault of a  
6 child, aggravated criminal sexual assault, or criminal sexual  
7 assault, and on or after January 1, 2023, any person arrested  
8 for any felony, shall be required to provide a specimen of  
9 blood, saliva, or tissue, to be collected by the arresting  
10 agency at booking. Within 14 days ~~any of the following~~  
11 ~~offenses, after an indictment has been returned by a grand~~  
12 ~~jury, or~~ following a hearing pursuant to Section 109-3 of the  
13 Code of Criminal Procedure of 1963 and a judge finds there is  
14 probable cause to believe the arrestee has committed one of  
15 the designated offenses, or an arrestee has waived a  
16 preliminary hearing, or the arrest was made under a warrant  
17 supported by probable cause that the arrestee committed one of  
18 the designated offenses, the arresting agency shall submit the  
19 specimen to ~~shall be required to provide a specimen of blood,~~  
20 ~~saliva, or tissue within 14 days after such indictment or~~  
21 ~~hearing at a collection site designated by the Illinois State~~  
22 Police. As soon as practicable following the hearing, if the  
23 judge finds there is no probable cause to believe the arrestee  
24 has committed the offense, the arresting agency shall cause  
25 the specimen to be destroyed. †

26 ~~(A) first degree murder;~~

- 1           ~~(B) home invasion;~~  
2           ~~(C) predatory criminal sexual assault of a child;~~  
3           ~~(D) aggravated criminal sexual assault; or~~  
4           ~~(E) criminal sexual assault.~~

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

11           (a-5) Any person who was otherwise convicted of or  
12 received a disposition of court supervision for any other  
13 offense under the Criminal Code of 1961 or the Criminal Code of  
14 2012 or who was found guilty or given supervision for such a  
15 violation under the Juvenile Court Act of 1987, may,  
16 regardless of the sentence imposed, be required by an order of  
17 the court to submit specimens of blood, saliva, or tissue to  
18 the Illinois State Police in accordance with the provisions of  
19 this Section.

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

25           (c) Any person required by paragraphs (a) (3), (a) (4), and  
26 (a) (4.5) to provide specimens of blood, saliva, or tissue

1 shall be required to provide such specimens prior to final  
2 discharge or within 6 months from August 13, 2009 (the  
3 effective date of Public Act 96-426), whichever is sooner.  
4 These specimens shall be placed into the State or national DNA  
5 database, to be used in accordance with other provisions of  
6 this Act, by the Illinois State Police.

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

13 (c-5.2) Unless it is determined that a registered sex  
14 offender has previously submitted a specimen of blood, saliva,  
15 or tissue that has been placed into the State DNA database, a  
16 person registering as a sex offender shall be required to  
17 submit a specimen at the time of his or her initial  
18 registration pursuant to the Sex Offender Registration Act or,  
19 for a person registered as a sex offender on or prior to  
20 January 1, 2012 (the effective date of Public Act 97-383),  
21 within one year of January 1, 2012 (the effective date of  
22 Public Act 97-383) or at the time of his or her next required  
23 registration.

24 (c-6) The Illinois State Police may determine which type  
25 of specimen or specimens, blood, saliva, or tissue, is  
26 acceptable for submission to the Division of Forensic Services



1 for analysis. The Illinois State Police may require the  
2 submission of fingerprints from anyone required to give a  
3 specimen under this Act.

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

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

24 (d-2) The Illinois State Police shall provide all  
25 equipment and instructions necessary for the collection of  
26 tissue specimens. The collection of tissue specimens shall be

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

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

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

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

20 (f) The genetic marker grouping analysis information  
21 obtained pursuant to this Act shall be confidential and shall  
22 be released only to peace officers of the United States, of  
23 other states or territories, of the insular possessions of the  
24 United States, of foreign countries duly authorized to receive  
25 the same, to all peace officers of the State of Illinois and to  
26 all prosecutorial agencies, and to defense counsel as provided

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

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

1 expunged from the DNA identification index, and the Department  
2 shall by rule prescribe procedures to ensure that the record  
3 and any specimens, analyses, or other documents relating to  
4 such record, whether in the possession of the Department or  
5 any law enforcement or police agency, or any forensic DNA  
6 laboratory, including any duplicates or copies thereof, are  
7 destroyed and a letter is sent to the court verifying the  
8 expungement is completed. For specimens required to be  
9 collected prior to conviction, unless the individual has other  
10 charges or convictions that require submission of a specimen,  
11 the DNA record for an individual shall be expunged from the DNA  
12 identification databases and the specimen destroyed upon  
13 receipt of a certified copy of a final court order for each  
14 charge against an individual in which the charge has been  
15 dismissed, resulted in acquittal, or that the charge was not  
16 filed within the applicable time period. The Department shall  
17 by rule prescribe procedures to ensure that the record and any  
18 specimens in the possession or control of the Department are  
19 destroyed and a letter is sent to the court verifying the  
20 expungement is completed.

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

1 (f-6) The Illinois State Police may contract with third  
2 parties for the purposes of implementing this amendatory Act  
3 of the 93rd General Assembly, except as provided in subsection  
4 (n) of this Section. Any other party contracting to carry out  
5 the functions of this Section shall be subject to the same  
6 restrictions and requirements of this Section insofar as  
7 applicable, as the Illinois State Police, and to any  
8 additional restrictions imposed by the Illinois State Police.

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

11 (1) any violation or inchoate violation of Section  
12 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or  
13 12-16 of the Criminal Code of 1961 or the Criminal Code of  
14 2012;

15 (1.1) any violation or inchoate violation of Section  
16 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,  
17 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of  
18 1961 or the Criminal Code of 2012 for which persons are  
19 convicted on or after July 1, 2001;

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

22 (3) (blank);

23 (4) any inchoate violation of Section 9-3.1, 9-3.4,  
24 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or  
25 the Criminal Code of 2012; or

26 (5) any violation or inchoate violation of Article 29D

1 of the Criminal Code of 1961 or the Criminal Code of 2012.

2 (g-5) (Blank).

3 (h) The Illinois State Police shall be the State central  
4 repository for all genetic marker grouping analysis  
5 information obtained pursuant to this Act. The Illinois State  
6 Police may promulgate rules for the form and manner of the  
7 collection of blood, saliva, or tissue specimens and other  
8 procedures for the operation of this Act. The provisions of  
9 the Administrative Review Law shall apply to all actions taken  
10 under the rules so promulgated.

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

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

22 (j) (Blank).

23 (k) All analysis and categorization assessments provided  
24 under the Criminal and Traffic Assessments Act to the State  
25 Crime Laboratory Fund shall be regulated as follows:

26 (1) (Blank).

1 (2) (Blank).

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

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

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

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

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

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

23 (1) The failure of a person to provide a specimen, or of  
24 any person or agency to collect a specimen, shall in no way  
25 alter the obligation of the person to submit such specimen, or  
26 the authority of the Illinois State Police or persons

1 designated by the Illinois State Police to collect the  
2 specimen, or the authority of the Illinois State Police to  
3 accept, analyze and maintain the specimen or to maintain or  
4 upload results of genetic marker grouping analysis information  
5 into a State or national database.

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

10 (n) Neither the Illinois State Police, the Division of  
11 Forensic Services, nor any laboratory of the Division of  
12 Forensic Services may contract out forensic testing for the  
13 purpose of an active investigation or a matter pending before  
14 a court of competent jurisdiction without the written consent  
15 of the prosecuting agency. For the purposes of this subsection  
16 (n), "forensic testing" includes the analysis of physical  
17 evidence in an investigation or other proceeding for the  
18 prosecution of a violation of the Criminal Code of 1961 or the  
19 Criminal Code of 2012 or for matters adjudicated under the  
20 Juvenile Court Act of 1987, and includes the use of forensic  
21 databases and databanks, including DNA, firearm, and  
22 fingerprint databases, and expert testimony.

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



1 the database by mistake.

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

4 (Source: P.A. 102-505, eff. 8-20-21; 102-538, eff. 8-20-21.)