



Rep. Lilian Jiménez

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10300HB2890ham001

LRB103 26126 RLC 59690 a

1 AMENDMENT TO HOUSE BILL 2890

2 AMENDMENT NO. _____. Amend House Bill 2890 by replacing
3 everything after the enacting clause with the following:

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, convicted or found guilty of, under
15 the Juvenile Court Act of 1987, any offense requiring
16 registration under the Sex Offender Registration Act, found

1 ~~guilty or given supervision for any offense classified as a~~
2 ~~felony under the Juvenile Court Act of 1987, convicted or~~
3 ~~found guilty of, under the Juvenile Court Act of 1987, any~~
4 ~~offense requiring registration under the Sex Offender~~
5 ~~Registration Act,~~ or institutionalized as a sexually dangerous
6 person under the Sexually Dangerous Persons Act, or committed
7 as a sexually violent person under the Sexually Violent
8 Persons Commitment Act, or found guilty under the Juvenile
9 Court Act of 1987 for first degree murder, aggravated criminal
10 sexual abuse, predatory criminal sexual assault of a child,
11 criminal sexual assault, or aggravated criminal sexual assault
12 shall, regardless of the sentence or disposition imposed, be
13 required to submit specimens of blood, saliva, or tissue to
14 the Illinois State Police in accordance with the provisions of
15 this Section, provided such person is:

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

22 (1.5) found guilty under the Juvenile Court Act of
23 1987 for first degree murder, aggravated criminal sexual
24 abuse, predatory criminal sexual assault of a child,
25 criminal sexual assault, or aggravated criminal sexual
26 assault on or after the effective date of this amendatory

1 Act of the 103rd General Assembly; ~~found guilty or given~~
2 ~~supervision under the Juvenile Court Act of 1987 for a~~
3 ~~qualifying offense or attempt of a qualifying offense on~~
4 ~~or after January 1, 1997;~~

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

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

13 (3.5) convicted ~~or found guilty~~ of any offense
14 classified as a felony under Illinois law ~~or found guilty~~
15 ~~or given supervision for such an offense under the~~
16 ~~Juvenile Court Act of 1987~~ on or after August 22, 2002;

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

21 (4.5) ordered committed as a sexually violent person
22 on or after the effective date of the Sexually Violent
23 Persons Commitment Act.

24 (a-1) Any person incarcerated in a facility of the
25 Illinois Department of Corrections ~~or the Illinois Department~~
26 ~~of Juvenile Justice~~ on or after August 22, 2002, whether for a

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

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

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

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

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

21 (a-3.2) On or after January 1, 2012 (the effective date of
22 Public Act 97-383), any person arrested for any of the
23 following offenses, after an indictment has been returned by a
24 grand jury, or following a hearing pursuant to Section 109-3
25 of the Code of Criminal Procedure of 1963 and a judge finds
26 there is probable cause to believe the arrestee has committed

1 one of the designated offenses, or an arrestee has waived a
2 preliminary hearing shall be required to provide a specimen of
3 blood, saliva, or tissue within 14 days after such indictment
4 or hearing at a collection site designated by the Illinois
5 State Police:

6 (A) first degree murder;

7 (B) home invasion;

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

9 (D) aggravated criminal sexual assault; or

10 (E) criminal sexual assault.

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

17 (a-5) Any person who was otherwise convicted of ~~or~~
18 ~~received a disposition of court supervision for~~ any other
19 offense under the Criminal Code of 1961 or the Criminal Code of
20 2012 ~~or who was found guilty or given supervision for such a~~
21 ~~violation under the Juvenile Court Act of 1987,~~ may,
22 regardless of the sentence imposed, be required by an order of
23 the court to submit specimens of blood, saliva, or tissue to
24 the Illinois State Police in accordance with the provisions of
25 this Section.

26 (b) Any person required by paragraphs (a)(1), (a)(1.5),

1 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,
2 saliva, or tissue shall provide specimens of blood, saliva, or
3 tissue within 45 days after sentencing or disposition at a
4 collection site designated by the Illinois State Police.

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

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

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

1 within one year of January 1, 2012 (the effective date of
2 Public Act 97-383) or at the time of his or her next required
3 registration.

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

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

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

1 forwarded to the Illinois State Police, Division of Forensic
2 Services, for analysis and categorizing into genetic marker
3 groupings.

4 (d-2) The Illinois State Police shall provide all
5 equipment and instructions necessary for the collection of
6 tissue specimens. The collection of tissue specimens shall be
7 performed in a medically approved manner. Only a person
8 trained in the instructions promulgated by the Illinois State
9 Police on collecting tissue may collect tissue for the
10 purposes of this Section. 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-5) To the extent that funds are available, the Illinois
15 State Police shall contract with qualified personnel and
16 certified laboratories for the collection, analysis, and
17 categorization of known specimens, except as provided in
18 subsection (n) of this Section.

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

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

26 (f) The genetic marker grouping analysis information

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

25 (f-1) Upon receipt of notification of a reversal of a
26 conviction based on actual innocence, or of the granting of a

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

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

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

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

17 (1) any violation or inchoate violation of Section
18 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or
19 12-16 of the Criminal Code of 1961 or the Criminal Code of
20 2012;

21 (1.1) any violation or inchoate violation of Section
22 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
23 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of
24 1961 or the Criminal Code of 2012 for which persons are
25 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, 9-3.4,
4 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or
5 the Criminal Code of 2012; or

6 (5) any violation or inchoate violation of Article 29D
7 of the Criminal Code of 1961 or the Criminal Code of 2012.

8 (g-5) (Blank).

9 (h) The Illinois State Police shall be the State central
10 repository for all genetic marker grouping analysis
11 information obtained pursuant to this Act. The Illinois State
12 Police may promulgate rules for the form and manner of the
13 collection of blood, saliva, or tissue specimens and other
14 procedures for the operation of this Act. The provisions of
15 the Administrative Review Law shall apply to all actions taken
16 under the rules so 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, or
21 tissue specimen is a Class 4 felony.

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

1 under this Act.

2 (j) (Blank).

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

6 (1) (Blank).

7 (2) (Blank).

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

16 (A) Costs incurred in providing analysis and
17 genetic marker categorization as required by
18 subsection (d).

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

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

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

26 (E) Costs incurred in continuing education,

1 training, and professional development of forensic
2 scientists regularly employed by these laboratories.

3 (l) The failure of a person to provide a specimen, or of
4 any person or agency to collect a specimen, shall in no way
5 alter the obligation of the person to submit such specimen, or
6 the authority of the Illinois State Police or persons
7 designated by the Illinois State Police to collect the
8 specimen, or the authority of the Illinois State Police to
9 accept, analyze and maintain the specimen or to maintain or
10 upload results of genetic marker grouping analysis information
11 into a State or national database.

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

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

1 databases and databanks, including DNA, firearm, and
2 fingerprint databases, and expert testimony.

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

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

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