

HB3352



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3352

Introduced 2/17/2023, by Rep. John M. Cabello - Patrick Windhorst

SYNOPSIS AS INTRODUCED:

730 ILCS 5/5-4-3

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

Amends the Unified Code of Corrections. In provisions requiring persons who are arrested for specified offenses to provide specimens of blood, saliva, or tissue, provides that those specimens shall be provided within 14 days after arrest (currently, indictment or preliminary hearing). Adds a forcible felony and felony domestic battery to the list of qualifying offenses.

LRB103 29975 RLC 56394 b

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 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) Any ~~On or after January 1, 2012 (the effective~~
4 ~~date of Public Act 97-383), any person arrested for any of the~~
5 ~~following offenses, after an indictment has been returned by a~~
6 ~~grand jury, or following a hearing pursuant to Section 109-3~~
7 ~~of the Code of Criminal Procedure of 1963 and a judge finds~~
8 ~~there is probable cause to believe the arrestee has committed~~
9 ~~one of the designated offenses, or an arrestee has waived a~~
10 ~~preliminary hearing~~ shall be required to provide a specimen of
11 blood, saliva, or tissue within 14 days after such arrest
12 ~~indictment or hearing~~ at a collection site designated by the
13 Illinois State Police:

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

19 In addition, on and after the effective date of this
20 amendatory Act of the 103rd General Assembly, any person
21 arrested for any of the following offenses shall be required
22 to provide a specimen of blood, saliva, or tissue within 14
23 days after such arrest at a collection site designated by the
24 Illinois State Police:

25 (1) a forcible felony as defined in Section 2-8 of the
26 Criminal Code of 2012; or

1 (2) felony domestic battery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (f) The genetic marker grouping analysis information
18 obtained pursuant to this Act shall be confidential and shall
19 be released only to peace officers of the United States, of
20 other states or territories, of the insular possessions of the
21 United States, of foreign countries duly authorized to receive
22 the same, to all peace officers of the State of Illinois and to
23 all prosecutorial agencies, and to defense counsel as provided
24 by Section 116-5 of the Code of Criminal Procedure of 1963. The
25 genetic marker grouping analysis information obtained pursuant
26 to this Act shall be used only for (i) valid law enforcement

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

16 (f-1) Upon receipt of notification of a reversal of a
17 conviction based on actual innocence, or of the granting of a
18 pardon pursuant to Section 12 of Article V of the Illinois
19 Constitution, if that pardon document specifically states that
20 the reason for the pardon is the actual innocence of an
21 individual whose DNA record has been stored in the State or
22 national DNA identification index in accordance with this
23 Section by the Illinois State Police, the DNA record shall be
24 expunged from the DNA identification index, and the Department
25 shall by rule prescribe procedures to ensure that the record
26 and any specimens, analyses, or other documents relating to

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

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

24 (f-6) The Illinois State Police may contract with third
25 parties for the purposes of implementing this amendatory Act
26 of the 93rd General Assembly, except as provided in subsection

1 (n) of this Section. Any other party contracting to carry out
2 the functions of this Section shall be subject to the same
3 restrictions and requirements of this Section insofar as
4 applicable, as the Illinois State Police, and to any
5 additional restrictions imposed by the Illinois State Police.

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

8 (1) any violation or inchoate violation of Section
9 11-1.50, 11-1.60, 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or
10 12-16 of the Criminal Code of 1961 or the Criminal Code of
11 2012;

12 (1.1) any violation or inchoate violation of Section
13 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
14 18-4, 18-6, 19-1, 19-2, or 19-6 of the Criminal Code of
15 1961 or the Criminal Code of 2012 for which persons are
16 convicted on or after July 1, 2001;

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

19 (3) (blank);

20 (4) any inchoate violation of Section 9-3.1, 9-3.4,
21 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961 or
22 the Criminal Code of 2012; or

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

25 (g-5) (Blank).

26 (h) The Illinois State Police shall be the State central

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

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

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

19 (j) (Blank).

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

23 (1) (Blank).

24 (2) (Blank).

25 (3) Moneys deposited into the State Crime Laboratory
26 Fund shall be used by Illinois State Police crime

1 laboratories as designated by the Director of the Illinois
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, shall in no way
22 alter the obligation of the person to submit such specimen, or
23 the authority of the Illinois State Police or persons
24 designated by the Illinois State Police to collect the
25 specimen, or the authority of the Illinois State Police to
26 accept, analyze and maintain the specimen or to maintain or

1 upload results of genetic marker grouping analysis information
2 into a State or national database.

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

7 (n) Neither the Illinois State Police, the Division of
8 Forensic Services, nor any laboratory of the Division of
9 Forensic Services may contract out forensic testing for the
10 purpose of an active investigation or a matter pending before
11 a court of competent jurisdiction without the written consent
12 of the prosecuting agency. For the purposes of this subsection
13 (n), "forensic testing" includes the analysis of physical
14 evidence in an investigation or other proceeding for the
15 prosecution of a violation of the Criminal Code of 1961 or the
16 Criminal Code of 2012 or for matters adjudicated under the
17 Juvenile Court Act of 1987, and includes the use of forensic
18 databases and databanks, including DNA, firearm, and
19 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
23 it is determined that the specimen was obtained or placed in
24 the database by mistake.

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

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