

1                                    AMENDMENT TO HOUSE BILL 573

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 573 as follows:  
3 by replacing everything after the enacting clause with the  
4 following:

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

7            (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

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

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

3 (1) convicted of a qualifying offense or attempt of  
4 a qualifying offense on or after July 1, 1990 the  
5 ~~effective--date--of--this--amendatory--Act--of--1989~~, and  
6 sentenced to a term of imprisonment, periodic  
7 imprisonment, fine, probation, conditional discharge or  
8 any other form of sentence, or given a disposition of  
9 court supervision for the offense; ~~or~~

10 (1.5) found guilty or given supervision under the  
11 Juvenile Court Act of 1987 for a qualifying offense or  
12 attempt of a qualifying offense on or after January 1,  
13 1997; ~~the--effective--date--of--this--amendatory--Act--of--1996~~,  
14 ~~or~~

15 (2) ordered institutionalized as a sexually  
16 dangerous person on or after July 1, 1990; ~~the--effective~~  
17 ~~date--of--this--amendatory--Act--of--1989~~; ~~or~~

18 (3) convicted of a qualifying offense or attempt of  
19 a qualifying offense before July 1, 1990 ~~the--effective~~  
20 ~~date--of--this--amendatory--Act--of--1989~~ and is presently  
21 confined as a result of such conviction in any State  
22 correctional facility or county jail or is presently  
23 serving a sentence of probation, conditional discharge or  
24 periodic imprisonment as a result of such conviction; ~~or~~

25 (3.5) convicted or found guilty of any offense  
26 classified as a felony under Illinois law or found guilty  
27 or given supervision for such an offense under the  
28 Juvenile Court Act of 1987 on or after August 22, 2002; ~~the--effective--date--of--this--amendatory--Act--of--the--92nd~~  
29 ~~General--Assembly~~; ~~or~~

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

1           (4.5) ordered committed as a sexually violent  
2 person on or after the effective date of the Sexually  
3 Violent Persons Commitment Act; or

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

9           Notwithstanding other provisions of this Section, any  
10 person incarcerated in a facility of the Illinois Department  
11 of Corrections on or after August 22, 2002 ~~the effective date~~  
12 ~~of this amendatory Act of the 92nd General Assembly~~ shall be  
13 required to submit a specimen of blood, saliva, or tissue  
14 prior to his or her final discharge or release on parole or  
15 mandatory supervised release, as a condition of his or her  
16 parole or mandatory supervised release.

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 who was found  
20 guilty or given supervision for such a violation under the  
21 Juvenile Court Act of 1987, may, regardless of the sentence  
22 imposed, be required by an order of the court to submit  
23 specimens of blood, saliva, or tissue to the Illinois  
24 Department of State Police in accordance with the provisions  
25 of this Section.

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

32           (c) Any person required by paragraphs (a)(3), (a)(4),  
33 and (a)(4.5) to provide specimens of blood, saliva, or tissue  
34 shall be required to provide such samples prior to final

1 discharge, parole, or release at a collection site designated  
2 by the Illinois Department of State Police.

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

9 (c-6) The Illinois Department of State Police may  
10 determine which type of specimen or specimens, blood, saliva,  
11 or tissue, is acceptable for submission to the Division of  
12 Forensic Services for analysis.

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

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

33 (d-2) The Illinois Department of State Police shall  
34 provide all equipment and instructions necessary for the

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

9 (d-5) To the extent that funds are available, the  
10 Illinois Department of State Police shall contract with  
11 qualified personnel and certified laboratories for the  
12 collection, analysis, and categorization of known samples.

13 (d-6) Agencies designated by the Illinois Department of  
14 State Police and the Illinois Department of State Police may  
15 contract with third parties to provide for the collection or  
16 analysis of DNA, or both, of an offender's blood, saliva, and  
17 tissue samples.

18 (d-7) A person authorized to collect DNA samples may not  
19 be civilly or criminally liable for the collection of a DNA  
20 sample under this Act if the person performs his or her  
21 duties in good faith and in reasonable manner according to  
22 generally accepted medical or other professional practices.

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

26 (f) The genetic marker grouping analysis information  
27 obtained pursuant to this Act shall be confidential and shall  
28 be released only to peace officers of the United States, of  
29 other states or territories, of the insular possessions of  
30 the United States, of foreign countries duly authorized to  
31 receive the same, to all peace officers of the State of  
32 Illinois and to all prosecutorial agencies. The genetic  
33 marker grouping analysis information obtained pursuant to  
34 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, or (ii) technology validation purposes, (iii) a  
4 population statistics database, or (iv) quality assurance  
5 purposes if personally identifying information is removed.

6 Notwithstanding any other statutory provision to the  
7 contrary, all information obtained under this Section shall  
8 be maintained in a single State data base, which may be  
9 uploaded into a national database, and which information may  
10 be subject to expungement only as set forth in subsection  
11 (f-1).

12 (f-1) Upon receipt of notification of a reversal of a  
13 conviction based on actual innocence, or of the granting of a  
14 pardon pursuant to Section 12 of Article V of the Illinois  
15 Constitution, if that pardon document specifically states  
16 that the reason for the pardon is the actual innocence of an  
17 individual whose DNA record has been stored in the State or  
18 national DNA identification index in accordance with this  
19 Section by the Illinois Department of State Police, the DNA  
20 record shall be expunged from the DNA identification index,  
21 and the Department shall by rule prescribe procedures to  
22 ensure that the record and any samples, analyses, or other  
23 documents relating to such record, whether in the possession  
24 of the Department or any law enforcement or police agency, or  
25 any forensic DNA laboratory, including any duplicates or  
26 copies thereof, are destroyed and a letter is sent to the  
27 court verifying the expungement is completed.

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

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

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

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

11 (1) any violation or inchoate violation of Section  
 12 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the  
 13 Criminal Code of 1961;~~i7-er~~

14 (1.1) any violation or inchoate violation of  
 15 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,  
 16 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961  
 17 for which persons are convicted on or after July 1,  
 18 2001;~~i7-er~~

19 (2) any former statute of this State which defined  
 20 a felony sexual offense;~~i7-er~~

21 (3) (blank);~~i7-er~~

22 (4) any inchoate violation of Section 9-3.1,  
 23 11-9.3, 12-7.3, or 12-7.4 of the Criminal Code of 1961;~~i7~~  
 24 or

25 (5) any violation or inchoate violation of Article  
 26 29D of the Criminal Code of 1961.

27 (g-5) (Blank).

28 (h) The Illinois Department of State Police shall be the  
 29 State central repository for all genetic marker grouping  
 30 analysis information obtained pursuant to this Act. The  
 31 Illinois Department of State Police may promulgate rules for  
 32 the form and manner of the collection of blood, saliva, or  
 33 tissue samples and other procedures for the operation of this  
 34 Act. The provisions of the Administrative Review Law shall

1 apply to all actions taken under the rules so promulgated.

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

7 (2) In the event that a person's DNA sample is not  
8 adequate for any reason, the person shall provide another DNA  
9 sample for analysis. Duly authorized law enforcement and  
10 corrections personnel may employ reasonable force in cases in  
11 which an individual refuses to provide a DNA sample required  
12 under this Act and those employees may not be civilly or  
13 criminally liable for the use of that reasonable force.

14 (j) Any person required by subsection (a) to submit  
15 specimens of blood, saliva, or tissue to the Illinois  
16 Department of State Police for analysis and categorization  
17 into genetic marker grouping, in addition to any other  
18 disposition, penalty, or fine imposed, shall pay an analysis  
19 fee of \$200. If the analysis fee is not paid at the time of  
20 sentencing, the court shall establish a fee schedule by which  
21 the entire amount of the analysis fee shall be paid in full,  
22 such schedule not to exceed 24 months from the time of  
23 conviction. The inability to pay this analysis fee shall not  
24 be the sole ground to incarcerate the person.

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

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

30 (2) All fees shall be collected by the clerk of the  
31 court and forwarded to the State Offender DNA  
32 Identification System Fund for deposit. The clerk of the  
33 circuit court may retain the amount of \$10 from each  
34 collected analysis fee to offset administrative costs



1 incurred in carrying out the clerk's responsibilities  
2 under this Section.

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

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

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

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

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

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

25 (1) The failure of a person to provide a specimen, or of  
26 any person or agency to collect a specimen, within the 45 day  
27 period shall in no way alter the obligation of the person to  
28 submit such specimen, or the authority of the Illinois  
29 Department of State Police or persons designated by the  
30 Department to collect the specimen, or the authority of the  
31 Illinois Department of State Police to accept, analyze and  
32 maintain the specimen or to maintain or upload results of  
33 genetic marker grouping analysis information into a State or  
34 national database.

1       (m) The detention, arrest, or conviction of a person  
2       based upon a database match or database information is not  
3       invalidated if it is determined that the sample was obtained  
4       or placed in the database by mistake.

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

9       (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;  
10      92-40, eff. 6-29-01; 92-571, eff. 6-26-02; 92-600, eff.  
11      6-28-02; 92-829, eff. 8-22-02; 92-854, eff. 12-5-02; revised  
12      1-20-03.)".