



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4261

Introduced 1/29/2004, by Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-3

Amends the Code of Criminal Procedure of 1963. Makes a technical change in the Section that permits the defendant to make a motion for fingerprint or forensic DNA testing on evidence that was secured in relation to the trial that resulted in his or her conviction, but that was not subject to testing because the technology for testing was not available at the time of trial.

LRB093 18933 RLC 44668 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 Code of Criminal Procedure of 1963 is
5 amended by changing Section 116-3 as follows:

6 (725 ILCS 5/116-3)

7 Sec. 116-3. Motion for fingerprint or forensic testing not
8 available at trial regarding actual innocence.

9 (a) A defendant may make a motion before the trial court
10 that entered the judgment of conviction in his or her case for
11 the performance of fingerprint or forensic DNA testing,
12 including comparison analysis of genetic marker groupings of
13 the evidence collected by criminal justice agencies pursuant to
14 the alleged offense, to those of the defendant, to those of
15 other forensic evidence, and to those maintained under
16 subsection (f) of Section 5-4-3 of the Unified Code of
17 Corrections, on evidence that was secured in relation to the
18 trial that ~~which~~ resulted in his or her conviction, but which
19 was not subject to the testing which is now requested because
20 the technology for the testing was not available at the time of
21 trial. Reasonable notice of the motion shall be served upon the
22 State.

23 (b) The defendant must present a prima facie case that:

24 (1) identity was the issue in the trial which resulted
25 in his or her conviction; and

26 (2) the evidence to be tested has been subject to a
27 chain of custody sufficient to establish that it has not
28 been substituted, tampered with, replaced, or altered in
29 any material aspect.

30 (c) The trial court shall allow the testing under
31 reasonable conditions designed to protect the State's
32 interests in the integrity of the evidence and the testing

1 process upon a determination that:

2 (1) the result of the testing has the scientific
3 potential to produce new, noncumulative evidence
4 materially relevant to the defendant's assertion of actual
5 innocence even though the results may not completely
6 exonerate the defendant;

7 (2) the testing requested employs a scientific method
8 generally accepted within the relevant scientific
9 community.

10 (Source: P.A. 93-605, eff. 11-19-03.)