



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4607

Introduced 1/11/2006, by Rep. Susana A Mendoza

SYNOPSIS AS INTRODUCED:

720 ILCS 5/31-4	from Ch. 38, par. 31-4
725 ILCS 5/107-2.5 new	
730 ILCS 5/5-4-3	from Ch. 38, par. 1005-4-3

Amends the Criminal Code of 1961. Provides that obstructing justice also consists of destroying, altering, concealing, disguising, or otherwise tampering with DNA fingerprinting evidence. Provides that the penalty is a Class 3 felony. Amends the Code of Criminal Procedure of 1963 and the Unified Code of Corrections. Provides that every person arrested for committing a felony shall have a sample of his or her saliva or tissue taken for DNA fingerprinting analysis, at the time of booking, for the purpose of determining identity and for certain other specified purposes. Provides that subject to appropriation, the Department of State Police shall implement this provision. Provides that this provision becomes operative no later than the earliest of the following: (1) two years after the effective date of this amendatory Act; (2) the date on which the Department of State Police informs law enforcement agencies that the Department is ready to collect samples; or (3) January 1, 2009.

LRB094 16583 RLC 51844 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 Criminal Code of 1961 is amended by changing
5 Section 31-4 as follows:

6 (720 ILCS 5/31-4) (from Ch. 38, par. 31-4)

7 Sec. 31-4. Obstructing justice.

8 (a) A person obstructs justice when, with intent to prevent
9 the apprehension or obstruct the prosecution or defense of any
10 person, he knowingly commits any of the following acts:

11 (1) ~~(a)~~ Destroys, alters, conceals or disguises physical
12 evidence, plants false evidence, furnishes false information;
13 or

14 (2) ~~(b)~~ Induces a witness having knowledge material to the
15 subject at issue to leave the State or conceal himself; or

16 (3) ~~(c)~~ Possessing knowledge material to the subject at
17 issue, he leaves the State or conceals himself; or =

18 (4) Destroys, alters, conceals, disguises, or otherwise
19 tampers with evidence collected under Section 107-2.5 of the
20 Code of Criminal Procedure of 1963 or Section 5-4-3 of the
21 Unified Code of Corrections.

22 (b) ~~(d)~~ Sentence.

23 (1) Obstructing justice is a Class 4 felony, except as
24 provided in paragraph (2) of this subsection (b) ~~(d)~~.

25 (2) Obstructing justice in furtherance of streetgang
26 related or gang-related activity, as defined in Section 10
27 of the Illinois Streetgang Terrorism Omnibus Prevention
28 Act, is a Class 3 felony. Obstructing justice in violation
29 of paragraph (a) (4) is a Class 3 felony.

30 (Source: P.A. 90-363, eff. 1-1-98.)

31 Section 10. The Code of Criminal Procedure of 1963 is

1 amended by adding Section 107-2.5 as follows:

2 (725 ILCS 5/107-2.5 new)

3 Sec. 107-2.5. DNA fingerprinting analysis.

4 (a) Every person arrested for committing a felony as
5 defined in Section 2-7 of the Criminal Code of 1961 shall have
6 a sample of his or her saliva or tissue taken for DNA
7 fingerprinting analysis, at the time of booking, for the
8 purpose of determining identity and for the purposes specified
9 in this Section and subsection (f) of Section 5-4-3 of the
10 Unified Code of Corrections. Any law enforcement agency
11 extracting DNA samples under this Section shall be required to
12 follow all written rules and regulations for the collection,
13 storage, and processing of those samples promulgated by the
14 Department of State Police. The analysis shall be performed by
15 the Department of State Police or a specific agent approved by
16 the Department of State Police. The identification
17 characteristics resulting from the DNA analysis shall be stored
18 and maintained by the Department of State Police or the
19 specific agent approved by the Department. All results
20 developed from collected DNA samples shall be subject to any
21 and all confidentiality provisions of State and federal laws.
22 The specific agent approved by the Department of State Police
23 to store and analyze DNA samples shall be required to meet all
24 Illinois State Police laboratory accreditation requirements
25 and shall properly forward the results of the DNA analysis to
26 the Department of State Police.

27 (b) If charges are dismissed or an individual is found not
28 guilty, any expungement of that person's DNA sample shall be in
29 accordance with the procedures set forth in Section 5 of the
30 Criminal Identification Act.

31 (c) Subject to appropriation, the Department of State
32 Police shall implement this Section; however, this Section
33 becomes operative no later than the earliest of the following:
34 (1) two years after the effective date of this amendatory Act
35 of the 94th General Assembly; (2) the date on which the

1 Department of State Police informs law enforcement agencies
2 that the Department is ready to collect samples; or (3) January
3 1, 2009.

4 Section 15. 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. Persons convicted of, or found delinquent for,
8 certain offenses or institutionalized as sexually dangerous;
9 specimens; genetic marker groups.

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

24 (1) convicted of a qualifying offense or attempt of a
25 qualifying offense on or after July 1, 1990 and sentenced
26 to a term of imprisonment, periodic imprisonment, fine,
27 probation, conditional discharge or any other form of
28 sentence, or given a disposition of court supervision for
29 the offense;

30 (1.5) found guilty or given supervision under the
31 Juvenile Court Act of 1987 for a qualifying offense or
32 attempt of a qualifying offense on or after January 1,
33 1997;

34 (2) ordered institutionalized as a sexually dangerous

1 person on or after July 1, 1990;

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

8 (3.5) convicted or found guilty of any offense
9 classified as a felony under Illinois law or found guilty
10 or given supervision for such an offense under the Juvenile
11 Court Act of 1987 on or after August 22, 2002;

12 (4) presently institutionalized as a sexually
13 dangerous person or presently institutionalized as a
14 person found guilty but mentally ill of a sexual offense or
15 attempt to commit a sexual offense;

16 (4.5) ordered committed as a sexually violent person on
17 or after the effective date of the Sexually Violent Persons
18 Commitment Act; ~~or~~

19 (5) seeking transfer to or residency in Illinois under
20 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
21 Corrections and the Interstate Compact for Adult Offender
22 Supervision or the Interstate Agreements on Sexually
23 Dangerous Persons Act; or -

24 (6) arrested who is suspected of committing a felony as
25 defined in Section 2-7 of the Criminal Code of 1961.

26 Notwithstanding other provisions of this Section, any
27 person incarcerated in a facility of the Illinois Department of
28 Corrections on or after August 22, 2002 shall be required to
29 submit a specimen of blood, saliva, or tissue prior to his or
30 her final discharge or release on parole or mandatory
31 supervised release, as a condition of his or her parole or
32 mandatory supervised release.

33 Notwithstanding other provisions of this Section, any
34 person sentenced to life imprisonment in a facility of the
35 Illinois Department of Corrections after the effective date of
36 this amendatory Act of the 94th General Assembly or sentenced

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

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

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

27 (c) Any person required by paragraphs (a)(3), (a)(4), and
28 (a)(4.5) to provide specimens of blood, saliva, or tissue shall
29 be required to provide such samples prior to final discharge,
30 parole, or release at a collection site designated by the
31 Illinois Department of State Police.

32 (c-5) Any person required by paragraph (a)(5) to provide
33 specimens of blood, saliva, or tissue shall, where feasible, be
34 required to provide the specimens before being accepted for
35 conditioned residency in Illinois under the interstate compact
36 or agreement, but no later than 45 days after arrival in this

1 State.

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

6 (c-7) Any person required by paragraph (a)(6) to provide
7 specimens of saliva or tissue shall be required to provide the
8 specimens at the booking procedure. The law enforcement officer
9 shall verify that the arrestee sample has not been previously
10 collected at each arrest.

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

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

31 (d-2) The Illinois Department of State Police shall provide
32 all equipment and instructions necessary for the collection of
33 tissue samples under this Section. The collection of tissue
34 samples shall be performed in a medically approved manner. Only
35 a person trained in the instructions promulgated by the
36 Illinois State Police on collecting tissue may collect tissue

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

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

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

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

17 (f) The genetic marker grouping analysis information
18 obtained pursuant to this Act and the information obtained
19 under Section 107-2.5 of the Code of Criminal Procedure of 1963
20 shall be confidential and shall be released only to peace
21 officers of the United States, of other states or territories,
22 of the insular possessions of the United States, of foreign
23 countries duly authorized to receive the same, to all peace
24 officers of the State of Illinois and to all prosecutorial
25 agencies, and to defense counsel as provided by Section 116-5
26 of the Code of Criminal Procedure of 1963. The genetic marker
27 grouping analysis information obtained pursuant to this Act
28 shall be used only for (i) valid law enforcement identification
29 purposes and as required by the Federal Bureau of Investigation
30 for participation in the National DNA database, (ii) technology
31 validation purposes, (iii) a population statistics database,
32 (iv) quality assurance purposes if personally identifying
33 information is removed, (v) assisting in the defense of the
34 criminally accused pursuant to Section 116-5 of the Code of
35 Criminal Procedure of 1963, or (vi) identifying and assisting
36 in the prosecution of a person who is suspected of committing a

1 sexual assault as defined in Section 1a of the Sexual Assault
2 Survivors Emergency Treatment Act. Notwithstanding any other
3 statutory provision to the contrary, all information obtained
4 under this Section shall be maintained in a single State data
5 base, which may be uploaded into a national database, and which
6 information may be subject to expungement only as set forth in
7 subsection (f-1).

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

24 (f-5) Any person who intentionally uses genetic marker
25 grouping analysis information, or any other information
26 derived from a DNA sample, beyond the authorized uses as
27 provided under this Section or under Section 107-2.5 of the
28 Code of Criminal Procedure of 1963, or any other Illinois law,
29 is guilty of a Class 3 ~~4~~ felony, and shall be subject to a fine
30 of not less than \$5,000.

31 (f-6) The Illinois Department of State Police may contract
32 with third parties for the purposes of implementing this
33 amendatory Act of the 93rd General Assembly. Any other party
34 contracting to carry out the functions of this Section shall be
35 subject to the same restrictions and requirements of this
36 Section insofar as applicable, as the Illinois Department of

1 State Police, and to any additional restrictions imposed by the
2 Illinois Department of State Police.

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

5 (1) any violation or inchoate violation of Section
6 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
7 Criminal Code of 1961;

8 (1.1) any violation or inchoate violation of Section
9 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
10 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
11 persons are convicted on or after July 1, 2001;

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

14 (3) (blank);

15 (4) any inchoate violation of Section 9-3.1, 11-9.3,
16 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

19 (g-5) (Blank).

20 (h) The Illinois Department of State Police shall be the
21 State central repository for all genetic marker grouping
22 analysis information obtained pursuant to this Act. The
23 Illinois Department of State Police may promulgate rules for
24 the form and manner of the collection of blood, saliva, or
25 tissue samples and other procedures for the operation of this
26 Act. The provisions of the Administrative Review Law shall
27 apply to all actions taken under the rules so promulgated.

28 (i) (1) A person required to provide a blood, saliva, or
29 tissue specimen shall cooperate with the collection of the
30 specimen and any deliberate act by that person intended to
31 impede, delay or stop the collection of the blood, saliva,
32 or tissue specimen is a Class A misdemeanor.

33 (2) In the event that a person's DNA sample is not
34 adequate for any reason, the person shall provide another
35 DNA sample for analysis. Duly authorized law enforcement
36 and corrections personnel may employ reasonable force in

1 cases in which an individual refuses to provide a DNA
2 sample required under this Act.

3 (j) Any person sentenced and required by subsection (a) to
4 submit specimens of blood, saliva, or tissue to the Illinois
5 Department of State Police for analysis and categorization into
6 genetic marker grouping, in addition to any other disposition,
7 penalty, or fine imposed, shall pay an analysis fee of \$200. If
8 the analysis fee is not paid at the time of sentencing, the
9 court shall establish a fee schedule by which the entire amount
10 of the analysis fee shall be paid in full, such schedule not to
11 exceed 24 months from the time of conviction. The inability to
12 pay this analysis fee shall not be the sole ground to
13 incarcerate the person.

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

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

18 (2) All fees shall be collected by the clerk of the
19 court and forwarded to the State Offender DNA
20 Identification System Fund for deposit. The clerk of the
21 circuit court may retain the amount of \$10 from each
22 collected analysis fee to offset administrative costs
23 incurred in carrying out the clerk's responsibilities
24 under this Section.

25 (3) Fees deposited into the State Offender DNA
26 Identification System Fund shall be used by Illinois State
27 Police crime laboratories as designated by the Director of
28 State Police. These funds shall be in addition to any
29 allocations made pursuant to existing laws and shall be
30 designated for the exclusive use of State crime
31 laboratories. These uses may include, but are not limited
32 to, the following:

33 (A) Costs incurred in providing analysis and
34 genetic marker categorization as required by
35 subsection (d).

36 (B) Costs incurred in maintaining genetic marker

1 groupings as required by subsection (e).

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

4 (D) Costs incurred in continuing research and
5 development of new techniques for analysis and genetic
6 marker categorization.

7 (E) Costs incurred in continuing education,
8 training, and professional development of forensic
9 scientists regularly employed by these laboratories.

10 (1) The failure of a person to provide a specimen, or of
11 any person or agency to collect a specimen, within the 45 day
12 period shall in no way alter the obligation of the person to
13 submit such specimen, or the authority of the Illinois
14 Department of State Police or persons designated by the
15 Department to collect the specimen, or the authority of the
16 Illinois Department of State Police to accept, analyze and
17 maintain the specimen or to maintain or upload results of
18 genetic marker grouping analysis information into a State or
19 national database.

20 (m) If any provision of this amendatory Act of the 93rd
21 General Assembly is held unconstitutional or otherwise
22 invalid, the remainder of this amendatory Act of the 93rd
23 General Assembly is not affected.

24 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
25 93-781, eff. 1-1-05; 94-16, eff. 6-13-05.)