



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2737

Introduced 1/20/2006, by Sen. Edward D. Maloney

SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-3

Amends the Code of Criminal Procedure of 1963. Provides that forensic testing of evidence that was secured in relation to the trial which resulted in the defendant's conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial may be allowed by the court if in addition to the other factors required by law the testing shall be performed by an American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD) accredited laboratory or an International Standards Organization (ISO) accredited laboratory.

LRB094 18851 RLC 54280 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 which resulted in his or her conviction, but which was
19 not subject to the testing which is now requested because the
20 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; and .

10 (3) the testing shall be performed by an American
11 Society of Crime Laboratory Directors/Laboratory
12 Accreditation Board (ASCLD) accredited laboratory or an
13 International Standards Organization (ISO) accredited
14 laboratory.

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