

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) when forensic DNA testing is requested, and the  
11 testing is to be performed on or after the effective date  
12 of this amendatory Act of the 94th General Assembly, the  
13 forensic DNA testing shall be performed by an American  
14 Society of Crime Laboratory Directors/Laboratory  
15 Accreditation Board (ASCLD/LAB) accredited laboratory or  
16 an International Organization for Standardization (ISO)  
17 accredited laboratory, unless upon written motion and  
18 after hearing arguments or evidence, or both, the court may  
19 order the DNA testing be performed by a laboratory that is  
20 not ASCLD/LAB or ISO accredited.

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