



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1290

Introduced 2/20/2007, by Rep. Arthur L. Turner

SYNOPSIS AS INTRODUCED:

725 ILCS 5/116-3

Amends the Code of Criminal Procedure of 1963. Provides that a defendant may make a motion before the trial court that entered the judgment of conviction in his or her case for the performance of Integrated Ballistic Identification System testing on evidence that was secured in relation to the trial which resulted in his or her 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.

LRB095 10445 RLC 30660 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, Integrated Ballistic
8 Identification System, or forensic testing not available at
9 trial regarding actual innocence.

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

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

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

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

8 (c) The trial court shall allow the testing under
9 reasonable conditions designed to protect the State's
10 interests in the integrity of the evidence and the testing
11 process upon a determination that:

12 (1) the result of the testing has the scientific
13 potential to produce new, noncumulative evidence
14 materially relevant to the defendant's assertion of actual
15 innocence even though the results may not completely
16 exonerate the defendant;

17 (2) the testing requested employs a scientific method
18 generally accepted within the relevant scientific
19 community.

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