

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, and:

21 (1) but which was not subject to the testing which is
22 now requested ~~because the technology for the testing was~~
23 ~~not available~~ at the time of trial; or. ~~Reasonable notice~~

1 ~~of the motion shall be served upon the State.~~

2 (2) although previously subjected to testing, can be
3 subjected to additional testing utilizing a method that was
4 not scientifically available at the time of trial that
5 provides a reasonable likelihood of more probative
6 results. Reasonable notice of the motion shall be served
7 upon the State.

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

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

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

15 (c) The trial court shall allow the testing under
16 reasonable conditions designed to protect the State's
17 interests in the integrity of the evidence and the testing
18 process upon a determination that:

19 (1) the result of the testing has the scientific
20 potential to produce new, noncumulative evidence
21 materially relevant to the defendant's assertion of actual
22 innocence even though the results may not completely
23 exonerate the defendant;

24 (2) the testing requested employs a scientific method
25 generally accepted within the relevant scientific
26 community.

1 (d) If evidence previously tested pursuant to this Section
2 reveals an unknown fingerprint from the crime scene that does
3 not match the defendant or the victim, the order of the Court
4 shall direct the prosecuting authority to request the Illinois
5 State Police Bureau of Forensic Science to submit the unknown
6 fingerprint evidence into the FBI's Integrated Automated
7 Fingerprint Identification System (AIFIS) for identification.

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