

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

1 provided in paragraph (2) of this subsection (b) ~~(d)~~.

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

7 (c) Notwithstanding any other rulemaking authority that
8 may exist, neither the Governor nor any agency or agency head
9 under the jurisdiction of the Governor has any authority to
10 make or promulgate rules to implement or enforce the provisions
11 of this amendatory Act of the 95th General Assembly. If,
12 however, the Governor believes that rules are necessary to
13 implement or enforce the provisions of this amendatory Act of
14 the 95th General Assembly, the Governor may suggest rules to
15 the General Assembly by filing them with the Clerk of the House
16 and Secretary of the Senate and by requesting that the General
17 Assembly authorize such rulemaking by law, enact those
18 suggested rules into law, or take any other appropriate action
19 in the General Assembly's discretion. Nothing contained in this
20 amendatory Act of the 95th General Assembly shall be
21 interpreted to grant rulemaking authority under any other
22 Illinois statute where such authority is not otherwise
23 explicitly given. For the purposes of this amendatory Act of
24 the 95th General Assembly, "rules" is given the meaning
25 contained in Section 1-70 of the Illinois Administrative
26 Procedure Act, and "agency" and "agency head" are given the

1 meanings contained in Sections 1-20 and 1-25 of the Illinois
2 Administrative Procedure Act to the extent that such
3 definitions apply to agencies or agency heads under the
4 jurisdiction of the Governor.

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

6 Section 10. The Code of Criminal Procedure of 1963 is
7 amended by adding Section 107-2.5 as follows:

8 (725 ILCS 5/107-2.5 new)

9 Sec. 107-2.5. DNA fingerprinting analysis.

10 (a) Every person arrested for committing a felony as
11 defined in Section 2-7 of the Criminal Code of 1961 shall have
12 a sample of his or her saliva or tissue taken for DNA
13 fingerprinting analysis, at the time of booking, for the
14 purpose of determining identity and for the purposes specified
15 in this Section and subsection (f) of Section 5-4-3 of the
16 Unified Code of Corrections. The analysis shall be performed by
17 the Department of State Police or a specific agent approved by
18 the Department of State Police. The identification
19 characteristics resulting from the DNA analysis shall be stored
20 and maintained by the Department of State Police or the
21 specific agent approved by the Department. All results
22 developed from collected DNA samples shall be subject to any
23 and all confidentiality provisions of State and federal laws.
24 The specific agent approved by the Department of State Police

1 to store and analyze DNA samples shall be required to meet all
2 Illinois State Police laboratory accreditation requirements
3 and shall properly forward the results of the DNA analysis to
4 the Department of State Police.

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

9 (c) Subject to appropriation, the Department of State
10 Police shall implement this Section; however, this Section
11 becomes operative no later than the earliest of the following:
12 (1) 2 years after the effective date of this amendatory Act of
13 the 95th General Assembly; (2) the date on which the Department
14 of State Police informs law enforcement agencies that the
15 Department is ready to collect samples; or (3) January 1, 2011.

16 (d) Notwithstanding any other rulemaking authority that
17 may exist, neither the Governor nor any agency or agency head
18 under the jurisdiction of the Governor has any authority to
19 make or promulgate rules to implement or enforce the provisions
20 of this amendatory Act of the 95th General Assembly. If,
21 however, the Governor believes that rules are necessary to
22 implement or enforce the provisions of this amendatory Act of
23 the 95th General Assembly, the Governor may suggest rules to
24 the General Assembly by filing them with the Clerk of the House
25 and Secretary of the Senate and by requesting that the General
26 Assembly authorize such rulemaking by law, enact those

1 suggested rules into law, or take any other appropriate action
2 in the General Assembly's discretion. Nothing contained in this
3 amendatory Act of the 95th General Assembly shall be
4 interpreted to grant rulemaking authority under any other
5 Illinois statute where such authority is not otherwise
6 explicitly given. For the purposes of this amendatory Act of
7 the 95th General Assembly, "rules" is given the meaning
8 contained in Section 1-70 of the Illinois Administrative
9 Procedure Act, and "agency" and "agency head" are given the
10 meanings contained in Sections 1-20 and 1-25 of the Illinois
11 Administrative Procedure Act to the extent that such
12 definitions apply to agencies or agency heads under the
13 jurisdiction of the Governor.

14 Section 15. The Unified Code of Corrections is amended by
15 changing Section 5-4-3 as follows:

16 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

17 Sec. 5-4-3. Persons convicted of, or found delinquent for,
18 certain offenses or institutionalized as sexually dangerous;
19 specimens; genetic marker groups.

20 (a) Any person convicted of, found guilty under the
21 Juvenile Court Act of 1987 for, or who received a disposition
22 of court supervision for, a qualifying offense or attempt of a
23 qualifying offense, arrested for or convicted or found guilty
24 of any offense classified as a felony under Illinois law,

1 convicted or found guilty of any offense requiring registration
2 under the Sex Offender Registration Act, found guilty or given
3 supervision for any offense classified as a felony under the
4 Juvenile Court Act of 1987, convicted or found guilty of, under
5 the Juvenile Court Act of 1987, any offense requiring
6 registration under the Sex Offender Registration Act, or
7 institutionalized as a sexually dangerous person under the
8 Sexually Dangerous Persons Act, or committed as a sexually
9 violent person under the Sexually Violent Persons Commitment
10 Act shall, regardless of the sentence or disposition imposed,
11 be required to submit specimens of blood, saliva, or tissue to
12 the Illinois Department of State Police in accordance with the
13 provisions of this Section, provided such person is:

14 (1) convicted of a qualifying offense or attempt of a
15 qualifying offense on or after July 1, 1990 and sentenced
16 to a term of imprisonment, periodic imprisonment, fine,
17 probation, conditional discharge or any other form of
18 sentence, or given a disposition of court supervision for
19 the offense;

20 (1.5) found guilty or given supervision under the
21 Juvenile Court Act of 1987 for a qualifying offense or
22 attempt of a qualifying offense on or after January 1,
23 1997;

24 (2) ordered institutionalized as a sexually dangerous
25 person on or after July 1, 1990;

26 (3) convicted of a qualifying offense or attempt of a

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

6 (3.5) convicted or found guilty of any offense
7 classified as a felony under Illinois law or found guilty
8 or given supervision for such an offense under the Juvenile
9 Court Act of 1987 on or after August 22, 2002;

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

14 (4.5) ordered committed as a sexually violent person on
15 or after the effective date of the Sexually Violent Persons
16 Commitment Act; ~~or~~

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

22 (6) arrested and is suspected of committing a felony as
23 defined in Section 2-7 of the Criminal Code of 1961.

24 Notwithstanding other provisions of this Section, any
25 person incarcerated in a facility of the Illinois Department of
26 Corrections on or after August 22, 2002 shall be required to

1 submit a specimen of blood, saliva, or tissue prior to his or
2 her final discharge or release on parole or mandatory
3 supervised release, as a condition of his or her parole or
4 mandatory supervised release.

5 Notwithstanding other provisions of this Section, any
6 person sentenced to life imprisonment in a facility of the
7 Illinois Department of Corrections after the effective date of
8 this amendatory Act of the 94th General Assembly or sentenced
9 to death after the effective date of this amendatory Act of the
10 94th General Assembly shall be required to provide a specimen
11 of blood, saliva, or tissue within 45 days after sentencing or
12 disposition at a collection site designated by the Illinois
13 Department of State Police. Any person serving a sentence of
14 life imprisonment in a facility of the Illinois Department of
15 Corrections on the effective date of this amendatory Act of the
16 94th General Assembly or any person who is under a sentence of
17 death on the effective date of this amendatory Act of the 94th
18 General Assembly shall be required to provide a specimen of
19 blood, saliva, or tissue upon request at a collection site
20 designated by the Illinois Department of State Police.

21 (a-5) Any person who was otherwise convicted of or received
22 a disposition of court supervision for any other offense under
23 the Criminal Code of 1961 or who was found guilty or given
24 supervision for such a violation under the Juvenile Court Act
25 of 1987, may, regardless of the sentence imposed, be required
26 by an order of the court to submit specimens of blood, saliva,

1 or tissue to the Illinois Department of State Police in
2 accordance with the provisions of this Section.

3 (b) Any person required by paragraphs (a)(1), (a)(1.5),
4 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,
5 saliva, or tissue shall provide specimens of blood, saliva, or
6 tissue within 45 days after sentencing or disposition at a
7 collection site designated by the Illinois Department of State
8 Police.

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

14 (c-5) Any person required by paragraph (a)(5) to provide
15 specimens of blood, saliva, or tissue shall, where feasible, be
16 required to provide the specimens before being accepted for
17 conditioned residency in Illinois under the interstate compact
18 or agreement, but no later than 45 days after arrival in this
19 State.

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

24 (c-7) Any person required by paragraph (a)(6) to provide
25 specimens of saliva or tissue shall be required to provide the
26 specimens at the booking procedure. The law enforcement officer

1 shall verify that the arrestee sample has not been previously
2 collected at each arrest.

3 (d) The Illinois Department of State Police shall provide
4 all equipment and instructions necessary for the collection of
5 blood samples. The collection of samples shall be performed in
6 a medically approved manner. Only a physician authorized to
7 practice medicine, a registered nurse or other qualified person
8 trained in venipuncture may withdraw blood for the purposes of
9 this Act. The samples shall thereafter be forwarded to the
10 Illinois Department of State Police, Division of Forensic
11 Services, for analysis and categorizing into genetic marker
12 groupings.

13 (d-1) The Illinois Department of State Police shall provide
14 all equipment and instructions necessary for the collection of
15 saliva samples under this Section. The collection of saliva
16 samples shall be performed in a medically approved manner. Only
17 a person trained in the instructions promulgated by the
18 Illinois State Police on collecting saliva may collect saliva
19 for the purposes of this Section. The samples shall thereafter
20 be forwarded to the Illinois Department of State Police,
21 Division of Forensic Services, for analysis and categorizing
22 into genetic marker groupings.

23 (d-2) The Illinois Department of State Police shall provide
24 all equipment and instructions necessary for the collection of
25 tissue samples under this Section. The collection of tissue
26 samples shall be performed in a medically approved manner. Only

1 a person trained in the instructions promulgated by the
2 Illinois State Police on collecting tissue may collect tissue
3 for the purposes of this Section. The samples shall thereafter
4 be forwarded to the Illinois Department of State Police,
5 Division of Forensic Services, for analysis and categorizing
6 into genetic marker groupings.

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

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

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

19 (f) The genetic marker grouping analysis information
20 obtained pursuant to this Act and the information obtained
21 under Section 107-2.5 of the Code of Criminal Procedure of 1963
22 shall be confidential and shall be released only to peace
23 officers of the United States, of other states or territories,
24 of the insular possessions of the United States, of foreign
25 countries duly authorized to receive the same, to all peace
26 officers of the State of Illinois and to all prosecutorial

1 agencies, and to defense counsel as provided by Section 116-5
2 of the Code of Criminal Procedure of 1963. The genetic marker
3 grouping analysis information obtained pursuant to this Act
4 shall be used only for (i) valid law enforcement identification
5 purposes and as required by the Federal Bureau of Investigation
6 for participation in the National DNA database, (ii) technology
7 validation purposes, (iii) a population statistics database,
8 (iv) quality assurance purposes if personally identifying
9 information is removed, (v) assisting in the defense of the
10 criminally accused pursuant to Section 116-5 of the Code of
11 Criminal Procedure of 1963, or (vi) identifying and assisting
12 in the prosecution of a person who is suspected of committing a
13 sexual assault as defined in Section 1a of the Sexual Assault
14 Survivors Emergency Treatment Act. Notwithstanding any other
15 statutory provision to the contrary, all information obtained
16 under this Section shall be maintained in a single State data
17 base, which may be uploaded into a national database, and which
18 information may be subject to expungement only as set forth in
19 subsection (f-1).

20 (f-1) Upon receipt of notification of a reversal of a
21 conviction based on actual innocence, or of the granting of a
22 pardon pursuant to Section 12 of Article V of the Illinois
23 Constitution, if that pardon document specifically states that
24 the reason for the pardon is the actual innocence of an
25 individual whose DNA record has been stored in the State or
26 national DNA identification index in accordance with this

1 Section by the Illinois Department of State Police, the DNA
2 record shall be expunged from the DNA identification index, and
3 the Department shall by rule prescribe procedures to ensure
4 that the record and any samples, analyses, or other documents
5 relating to such record, whether in the possession of the
6 Department or any law enforcement or police agency, or any
7 forensic DNA laboratory, including any duplicates or copies
8 thereof, are destroyed and a letter is sent to the court
9 verifying the expungement is completed.

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

17 (f-6) The Illinois Department of State Police may contract
18 with third parties for the purposes of implementing this
19 amendatory Act of the 93rd General Assembly. Any other party
20 contracting to carry out the functions of this Section shall be
21 subject to the same restrictions and requirements of this
22 Section insofar as applicable, as the Illinois Department of
23 State Police, and to any additional restrictions imposed by the
24 Illinois Department of State Police.

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

1 (1) any violation or inchoate violation of Section
2 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
3 Criminal Code of 1961;

4 (1.1) any violation or inchoate violation of Section
5 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
6 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
7 persons are convicted on or after July 1, 2001;

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

10 (3) (blank);

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

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

15 (g-5) (Blank).

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

24 (i) (1) A person required to provide a blood, saliva, or
25 tissue specimen shall cooperate with the collection of the
26 specimen and any deliberate act by that person intended to

1 impede, delay or stop the collection of the blood, saliva,
2 or tissue specimen is a Class A misdemeanor.

3 (2) In the event that a person's DNA sample is not
4 adequate for any reason, the person shall provide another
5 DNA sample for analysis. Duly authorized law enforcement
6 and corrections personnel may employ reasonable force in
7 cases in which an individual refuses to provide a DNA
8 sample required under this Act.

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

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

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

24 (2) All fees shall be collected by the clerk of the
25 court and forwarded to the State Offender DNA
26 Identification System Fund for deposit. The clerk of the

1 circuit court may retain the amount of \$10 from each
2 collected analysis fee to offset administrative costs
3 incurred in carrying out the clerk's responsibilities
4 under this Section.

5 (3) Fees deposited into the State Offender DNA
6 Identification System Fund shall be used by Illinois State
7 Police crime laboratories as designated by the Director of
8 State Police. These funds shall be in addition to any
9 allocations made pursuant to existing laws and shall be
10 designated for the exclusive use of State crime
11 laboratories. These uses may include, but are not limited
12 to, the following:

13 (A) Costs incurred in providing analysis and
14 genetic marker categorization as required by
15 subsection (d).

16 (B) Costs incurred in maintaining genetic marker
17 groupings as required by subsection (e).

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

20 (D) Costs incurred in continuing research and
21 development of new techniques for analysis and genetic
22 marker categorization.

23 (E) Costs incurred in continuing education,
24 training, and professional development of forensic
25 scientists regularly employed by these laboratories.

26 (1) The failure of a person to provide a specimen, or of

1 any person or agency to collect a specimen, within the 45 day
2 period shall in no way alter the obligation of the person to
3 submit such specimen, or the authority of the Illinois
4 Department of State Police or persons designated by the
5 Department to collect the specimen, or the authority of the
6 Illinois Department of State Police to accept, analyze and
7 maintain the specimen or to maintain or upload results of
8 genetic marker grouping analysis information into a State or
9 national database.

10 (m) If any provision of Public Act 93-216 ~~this amendatory~~
11 ~~Act of the 93rd General Assembly~~ is held unconstitutional or
12 otherwise invalid, the remainder of Public Act 93-216 ~~this~~
13 ~~amendatory Act of the 93rd General Assembly~~ is not affected.

14 (n) If any provision of this amendatory Act of the 95th
15 General Assembly is held unconstitutional or otherwise
16 invalid, the remainder of this amendatory Act of the 95th
17 General Assembly is not affected.

18 (o) Notwithstanding any other rulemaking authority that
19 may exist, neither the Governor nor any agency or agency head
20 under the jurisdiction of the Governor has any authority to
21 make or promulgate rules to implement or enforce the provisions
22 of this amendatory Act of the 95th General Assembly. If,
23 however, the Governor believes that rules are necessary to
24 implement or enforce the provisions of this amendatory Act of
25 the 95th General Assembly, the Governor may suggest rules to
26 the General Assembly by filing them with the Clerk of the House

1 and Secretary of the Senate and by requesting that the General
2 Assembly authorize such rulemaking by law, enact those
3 suggested rules into law, or take any other appropriate action
4 in the General Assembly's discretion. Nothing contained in this
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6 interpreted to grant rulemaking authority under any other
7 Illinois statute where such authority is not otherwise
8 explicitly given. For the purposes of this amendatory Act of
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10 contained in Section 1-70 of the Illinois Administrative
11 Procedure Act, and "agency" and "agency head" are given the
12 meanings contained in Sections 1-20 and 1-25 of the Illinois
13 Administrative Procedure Act to the extent that such
14 definitions apply to agencies or agency heads under the
15 jurisdiction of the Governor.

16 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
17 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
18 1-1-07.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.