

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

6 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

10 (a) Any person convicted of, found guilty under the  
11 Juvenile Court Act of 1987 for, or who received a disposition  
12 of court supervision for, a qualifying offense or attempt of a  
13 qualifying offense, convicted or found guilty of any offense  
14 classified as a felony under Illinois law, convicted or found  
15 guilty of any offense requiring registration under the Sex  
16 Offender Registration Act, found guilty or given supervision  
17 for any offense classified as a felony under the Juvenile Court  
18 Act of 1987, convicted or found guilty of, under the Juvenile  
19 Court Act of 1987, any offense requiring registration under the  
20 Sex Offender Registration Act, or institutionalized as a  
21 sexually dangerous person under the Sexually Dangerous Persons  
22 Act, or committed as a sexually violent person under the  
23 Sexually Violent Persons Commitment Act shall, regardless of

1 the sentence or disposition imposed, be required to submit  
2 specimens of blood, saliva, or tissue to the Illinois  
3 Department of State Police in accordance with the provisions of  
4 this Section, provided such person is:

5 (1) convicted of a qualifying offense or attempt of a  
6 qualifying offense on or after July 1, 1990 and sentenced  
7 to a term of imprisonment, periodic imprisonment, fine,  
8 probation, conditional discharge or any other form of  
9 sentence, or given a disposition of court supervision for  
10 the offense;

11 (1.5) found guilty or given supervision under the  
12 Juvenile Court Act of 1987 for a qualifying offense or  
13 attempt of a qualifying offense on or after January 1,  
14 1997;

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

17 (3) convicted of a qualifying offense or attempt of a  
18 qualifying offense before July 1, 1990 and is presently  
19 confined as a result of such conviction in any State  
20 correctional facility or county jail or is presently  
21 serving a sentence of probation, conditional discharge or  
22 periodic imprisonment as a result of such conviction;

23 (3.5) convicted or found guilty of any offense  
24 classified as a felony under Illinois law or found guilty  
25 or given supervision for such an offense under the Juvenile  
26 Court Act of 1987 on or after August 22, 2002;

1           (4) presently institutionalized as a sexually  
2 dangerous person or presently institutionalized as a  
3 person found guilty but mentally ill of a sexual offense or  
4 attempt to commit a sexual offense;

5           (4.5) ordered committed as a sexually violent person on  
6 or after the effective date of the Sexually Violent Persons  
7 Commitment Act; or

8           (5) seeking transfer to or residency in Illinois under  
9 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of  
10 Corrections and the Interstate Compact for Adult Offender  
11 Supervision or the Interstate Agreements on Sexually  
12 Dangerous Persons Act.

13           Notwithstanding other provisions of this Section, any  
14 person on the effective date of this amendatory Act of the 95th  
15 General Assembly incarcerated in a facility of the Illinois  
16 Department of Corrections for any sex offense, including but  
17 not limited to violations of Article 12 of the Criminal Code of  
18 1961, or a prior sex offense statute as defined in any former  
19 version of the Criminal Code of 1961, or any offense that was  
20 sexually motivated, shall submit a specimen of blood, saliva,  
21 or tissue by July 1, 2007 for immediate inclusion in the State  
22 Offender DNA Identification System. After July 1, 2007, every  
23 person convicted of a sex offense, including but not limited to  
24 violations of Article 12 of the Criminal Code of 1961, or a  
25 prior sex offense statute as defined in any former version of  
26 the Criminal Code of 1961, or any offense which at the time of

1 sentencing the court finds to be sexually motivated shall  
2 within 45 days of his or her placement in a facility of the  
3 Illinois Department of Corrections submit a sample of blood,  
4 saliva, or tissue for immediate inclusion in the State Offender  
5 DNA Identification System.

6 Notwithstanding other provisions of this Section, any  
7 person incarcerated in a facility of the Illinois Department of  
8 Corrections on or after August 22, 2002 shall be required to  
9 submit a specimen of blood, saliva, or tissue prior to his or  
10 her final discharge or release on parole or mandatory  
11 supervised release, as a condition of his or her parole or  
12 mandatory supervised release, except that the specimen of any  
13 person incarcerated in a facility of the Illinois Department of  
14 Corrections, or received at a facility of the Illinois  
15 Department of Corrections for a sex offense or an offense that  
16 a court has found to be sexually motivated shall be collected  
17 in accordance with the provision of the preceding paragraph.

18 Notwithstanding other provisions of this Section, any  
19 person sentenced to life imprisonment in a facility of the  
20 Illinois Department of Corrections after the effective date of  
21 this amendatory Act of the 94th General Assembly or sentenced  
22 to death after the effective date of this amendatory Act of the  
23 94th General Assembly shall be required to provide a specimen  
24 of blood, saliva, or tissue within 45 days after sentencing or  
25 disposition at a collection site designated by the Illinois  
26 Department of State Police. Any person serving a sentence of

1 life imprisonment in a facility of the Illinois Department of  
2 Corrections on the effective date of this amendatory Act of the  
3 94th General Assembly or any person who is under a sentence of  
4 death on the effective date of this amendatory Act of the 94th  
5 General Assembly shall be required to provide a specimen of  
6 blood, saliva, or tissue upon request at a collection site  
7 designated by the Illinois Department of State Police.

8 (a-5) Any person who was otherwise convicted of or received  
9 a disposition of court supervision for any other offense under  
10 the Criminal Code of 1961 or who was found guilty or given  
11 supervision for such a violation under the Juvenile Court Act  
12 of 1987, may, regardless of the sentence imposed, be required  
13 by an order of the court to submit specimens of blood, saliva,  
14 or tissue to the Illinois Department of State Police in  
15 accordance with the provisions of this Section.

16 (b) Any person required by paragraphs (a)(1), (a)(1.5),  
17 (a)(2), (a)(3.5), and (a-5) to provide specimens of blood,  
18 saliva, or tissue shall provide specimens of blood, saliva, or  
19 tissue within 45 days after sentencing or disposition at a  
20 collection site designated by the Illinois Department of State  
21 Police.

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

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

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

11 (d) The Illinois Department of State Police shall provide  
12 all equipment and instructions necessary for the collection of  
13 blood samples. The collection of samples shall be performed in  
14 a medically approved manner. Only a physician authorized to  
15 practice medicine, a registered nurse or other qualified person  
16 trained in venipuncture may withdraw blood for the purposes of  
17 this Act. The samples shall thereafter be forwarded to the  
18 Illinois Department of State Police, Division of Forensic  
19 Services, for analysis and categorizing into genetic marker  
20 groupings.

21 (d-1) The Illinois Department of State Police shall provide  
22 all equipment and instructions necessary for the collection of  
23 saliva samples. The collection of saliva samples shall be  
24 performed in a medically approved manner. Only a person trained  
25 in the instructions promulgated by the Illinois State Police on  
26 collecting saliva may collect saliva for the purposes of this

1 Section. The samples shall thereafter be forwarded to the  
2 Illinois Department of State Police, Division of Forensic  
3 Services, for analysis and categorizing into genetic marker  
4 groupings.

5 (d-2) The Illinois Department of State Police shall provide  
6 all equipment and instructions necessary for the collection of  
7 tissue samples. The collection of tissue samples shall be  
8 performed in a medically approved manner. Only a person trained  
9 in the instructions promulgated by the Illinois State Police on  
10 collecting tissue may collect tissue for the purposes of this  
11 Section. The samples shall thereafter be forwarded to the  
12 Illinois Department of State Police, Division of Forensic  
13 Services, for analysis and categorizing into genetic marker  
14 groupings.

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

19 (d-6) Agencies designated by the Illinois Department of  
20 State Police and the Illinois Department of State Police may  
21 contract with third parties to provide for the collection or  
22 analysis of DNA, or both, of an offender's blood, saliva, and  
23 tissue samples.

24 (e) The genetic marker groupings shall be maintained by the  
25 Illinois Department of State Police, Division of Forensic  
26 Services.

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

26 (f-1) Upon receipt of notification of a reversal of a



1 conviction based on actual innocence, or of the granting of a  
2 pardon pursuant to Section 12 of Article V of the Illinois  
3 Constitution, if that pardon document specifically states that  
4 the reason for the pardon is the actual innocence of an  
5 individual whose DNA record has been stored in the State or  
6 national DNA identification index in accordance with this  
7 Section by the Illinois Department of State Police, the DNA  
8 record shall be expunged from the DNA identification index, and  
9 the Department shall by rule prescribe procedures to ensure  
10 that the record and any samples, analyses, or other documents  
11 relating to such record, whether in the possession of the  
12 Department or any law enforcement or police agency, or any  
13 forensic DNA laboratory, including any duplicates or copies  
14 thereof, are destroyed and a letter is sent to the court  
15 verifying the expungement is completed.

16 (f-5) Any person who intentionally uses genetic marker  
17 grouping analysis information, or any other information  
18 derived from a DNA sample, beyond the authorized uses as  
19 provided under this Section, or any other Illinois law, is  
20 guilty of a Class 4 felony, and shall be subject to a fine of  
21 not less than \$5,000.

22 (f-6) The Illinois Department of State Police may contract  
23 with third parties for the purposes of implementing this  
24 amendatory Act of the 93rd General Assembly. Any other party  
25 contracting to carry out the functions of this Section shall be  
26 subject to the same restrictions and requirements of this

1 Section insofar as applicable, as the Illinois Department of  
2 State Police, and to any additional restrictions imposed by the  
3 Illinois Department of State Police.

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

6 (1) any violation or inchoate violation of Section  
7 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the  
8 Criminal Code of 1961;

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

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

15 (3) (blank);

16 (4) any inchoate violation of Section 9-3.1, 11-9.3,  
17 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

20 (g-5) (Blank).

21 (h) The Illinois Department of State Police shall be the  
22 State central repository for all genetic marker grouping  
23 analysis information obtained pursuant to this Act. The  
24 Illinois Department of State Police may promulgate rules for  
25 the form and manner of the collection of blood, saliva, or  
26 tissue samples and other procedures for the operation of this

1 Act. The provisions of the Administrative Review Law shall  
2 apply to all actions taken under the rules so promulgated.

3 (i) (1) A person required to provide a blood, saliva, or  
4 tissue specimen shall cooperate with the collection of the  
5 specimen and any deliberate act by that person intended to  
6 impede, delay or stop the collection of the blood, saliva,  
7 or tissue specimen is a Class A misdemeanor.

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

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

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

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

3           (2) All fees shall be collected by the clerk of the  
4 court and forwarded to the State Offender DNA  
5 Identification System Fund for deposit. The clerk of the  
6 circuit court may retain the amount of \$10 from each  
7 collected analysis fee to offset administrative costs  
8 incurred in carrying out the clerk's responsibilities  
9 under this Section.

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

18           (A) Costs incurred in providing analysis and  
19 genetic marker categorization as required by  
20 subsection (d).

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

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

25           (D) Costs incurred in continuing research and  
26 development of new techniques for analysis and genetic

1 marker categorization.

2 (E) Costs incurred in continuing education,  
3 training, and professional development of forensic  
4 scientists regularly employed by these laboratories.

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

15 (m) If any provision of this amendatory Act of the 93rd  
16 General Assembly is held unconstitutional or otherwise  
17 invalid, the remainder of this amendatory Act of the 93rd  
18 General Assembly is not affected.

19 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;  
20 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.  
21 1-1-07.)

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law.