



Judiciary II - Criminal Law Committee

**Filed: 5/24/2007**

09500SB0710ham001

LRB095 04889 RLC 36178 a

1 AMENDMENT TO SENATE BILL 710

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 710 by replacing  
3 everything after the enacting clause with the following:

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

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

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

18 (1.5) found guilty or given supervision under the  
19 Juvenile Court Act of 1987 for a qualifying offense or  
20 attempt of a qualifying offense on or after January 1,  
21 1997;

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

24 (3) convicted of a qualifying offense or attempt of a  
25 qualifying offense before July 1, 1990 and is presently  
26 confined as a result of such conviction in any State

1 correctional facility or county jail or is presently  
2 serving a sentence of probation, conditional discharge or  
3 periodic imprisonment as a result of such conviction;

4 (3.5) convicted or found guilty of any offense  
5 classified as a felony under Illinois law or found guilty  
6 or given supervision for such an offense under the Juvenile  
7 Court Act of 1987 on or after August 22, 2002;

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

12 (4.5) ordered committed as a sexually violent person on  
13 or after the effective date of the Sexually Violent Persons  
14 Commitment Act; or

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

20 Notwithstanding other provisions of this Section, any  
21 person incarcerated in a facility of the Illinois Department of  
22 Corrections or the Illinois Department of Juvenile Justice on  
23 or after August 22, 2002, whether for a term of years, natural  
24 life, or a sentence of death, who has not yet submitted a  
25 sample of blood, saliva, or tissue shall be required to submit  
26 a specimen of blood, saliva, or tissue prior to his or her

1 final discharge or within 6 months from the effective date of  
2 this amendatory Act of the 95th General Assembly, whichever is  
3 sooner. These specimens shall be placed into the State or  
4 national DNA database, to be used in accordance with other  
5 provisions of this Act, by the Illinois State Police ~~release on~~  
6 ~~parole or mandatory supervised release, as a condition of his~~  
7 ~~or her parole or mandatory supervised release.~~

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

24 (a-5) Any person who was otherwise convicted of or received  
25 a disposition of court supervision for any other offense under  
26 the Criminal Code of 1961 or who was found guilty or given

1 supervision for such a violation under the Juvenile Court Act  
2 of 1987, may, regardless of the sentence imposed, be required  
3 by an order of the court to submit specimens of blood, saliva,  
4 or tissue to the Illinois Department of State Police in  
5 accordance with the provisions of this Section.

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

12 (c) Any person required by paragraphs (a)(3), (a)(4), and  
13 (a)(4.5) to provide specimens of blood, saliva, or tissue shall  
14 be required to provide such samples prior to final discharge or  
15 within 6 months from the effective date of this amendatory Act  
16 of the 95th General Assembly, whichever is sooner. These  
17 specimens shall be placed into the State or national DNA  
18 database, to be used in accordance with other provisions of  
19 this Act, by the Illinois State Police, parole, or release at a  
20 collection site designated by the Illinois Department of State  
21 Police.

22 (c-5) Any person required by paragraph (a)(5) to provide  
23 specimens of blood, saliva, or tissue shall, where feasible, be  
24 required to provide the specimens before being accepted for  
25 conditioned residency in Illinois under the interstate compact  
26 or agreement, but no later than 45 days after arrival in this

1 State.

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

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

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

26 (d-2) The Illinois Department of State Police shall provide

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

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

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

19 (e) The genetic marker groupings shall be maintained by the  
20 Illinois Department of State Police, Division of Forensic  
21 Services.

22 (f) The genetic marker grouping analysis information  
23 obtained pursuant to this Act shall be confidential and shall  
24 be released only to peace officers of the United States, of  
25 other states or territories, of the insular possessions of the  
26 United States, of foreign countries duly authorized to receive

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

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



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

11 (f-5) Any person who intentionally uses genetic marker  
12 grouping analysis information, or any other information  
13 derived from a DNA sample, beyond the authorized uses as  
14 provided under this Section, or any other Illinois law, is  
15 guilty of a Class 4 felony, and shall be subject to a fine of  
16 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 required by subsection (a) to submit  
10          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 this amendatory Act of the 93rd  
11 General Assembly is held unconstitutional or otherwise  
12 invalid, the remainder of this amendatory Act of the 93rd  
13 General Assembly is not affected.

14 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;  
15 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.  
16 1-1-07.)

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law."