

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 2. The Illinois Criminal Justice Information Act is
5 amended by adding Section 7.6 as follows:

6 (20 ILCS 3930/7.6 new)

7 Sec. 7.6. Capital Crimes Database.

8 (a) Subject to appropriation, a Capital Crimes Database
9 shall be created within the Illinois Criminal Justice
10 Information Authority (ICJIA).

11 (b) The ICJIA shall collect and retain in the Capital
12 Crimes Database all information on the prosecution, pendency,
13 and disposition of capital and capital eligible cases in
14 Illinois. The Capital Crimes Database shall serve as a
15 repository for all of the foregoing collected information.

16 (c) The ICJIA shall develop administrative rules to provide
17 for the coordination and collection of information in the
18 Capital Crimes Database.

19 (d) Agencies required to provide information on capital
20 cases to the ICJIA, as the ICJIA may request, for the Capital
21 Crimes Database shall include, but not be limited to:

22 (1) Office of the Attorney General.

23 (2) Illinois Department of Corrections.

- 1 (3) Illinois State Police.
- 2 (4) All county State's Attorneys.
- 3 (5) All county public defenders.
- 4 (6) Office of the State's Attorneys Appellate
5 Prosecutor.
- 6 (7) Office of the State Appellate Defender.
- 7 (e) Agencies requested to provide information on capital
8 cases to the ICJIA for the Capital Crimes Database shall
9 include, but not be limited to:
- 10 (1) Administrative Office of Illinois Courts.
- 11 (2) All county circuit court clerks.
- 12 (f) The ICJIA shall develop procedures and protocols for
13 the submission of information relating to capital and capital
14 eligible cases to the Database in conjunction with the agencies
15 submitting information.

16 Section 3. The Illinois Police Training Act is amended by
17 changing Section 10.3 as follows:

18 (50 ILCS 705/10.3)

19 Sec. 10.3. Training of police officers to conduct
20 electronic interrogations.

21 (a) From appropriations made to it for that purpose, the
22 Board shall initiate, administer, and conduct training
23 programs for permanent police officers, part-time police
24 officers, and recruits on the methods and technical aspects of

1 conducting electronic recordings of interrogations.

2 (b) Subject to appropriation, the Board shall develop
3 technical guidelines for the mandated recording of custodial
4 interrogations in all homicide investigations by law
5 enforcement agencies. These guidelines shall be developed in
6 conjunction with law enforcement agencies and technology
7 accreditation groups to provide guidance for law enforcement
8 agencies in implementing the mandated recording of custodial
9 interrogations in all homicide investigations.

10 (Source: P.A. 93-206, eff. 7-18-03; 93-517, eff. 8-6-03.)

11 Section 4. The Criminal Code of 1961 is amended by changing
12 Sections 33A-2 and 33A-3 as follows:

13 (720 ILCS 5/33A-2) (from Ch. 38, par. 33A-2)

14 Sec. 33A-2. Armed violence-Elements of the offense.

15 (a) A person commits armed violence when, while armed with
16 a dangerous weapon, he commits any felony defined by Illinois
17 Law, except first degree murder, attempted first degree murder,
18 intentional homicide of an unborn child, second degree murder,
19 involuntary manslaughter, reckless homicide, predatory
20 criminal sexual assault of a child, ~~aggravated criminal sexual~~
21 ~~assault, aggravated kidnaping,~~ aggravated battery of a child,
22 home invasion, or any offense that makes the possession or use
23 of a dangerous weapon either an element of the base offense, an
24 aggravated or enhanced version of the offense, or a mandatory

1 sentencing factor that increases the sentencing range ~~armed~~
2 ~~robbery, or aggravated vehicular hijacking.~~

3 (b) A person commits armed violence when he or she
4 personally discharges a firearm that is a Category I or
5 Category II weapon while committing any felony defined by
6 Illinois law, except first degree murder, attempted first
7 degree murder, intentional homicide of an unborn child, second
8 degree murder, involuntary manslaughter, reckless homicide,
9 predatory criminal sexual assault of a child, ~~aggravated~~
10 ~~criminal sexual assault, aggravated kidnaping,~~ aggravated
11 battery of a child, home invasion, or any offense that makes
12 the possession or use of a dangerous weapon either an element
13 of the base offense, an aggravated or enhanced version of the
14 offense, or a mandatory sentencing factor that increases the
15 sentencing range ~~armed robbery, or aggravated vehicular~~
16 ~~hijacking.~~

17 (c) A person commits armed violence when he or she
18 personally discharges a firearm that is a Category I or
19 Category II weapon that proximately causes great bodily harm,
20 permanent disability, or permanent disfigurement or death to
21 another person while committing any felony defined by Illinois
22 law, except first degree murder, attempted first degree murder,
23 intentional homicide of an unborn child, second degree murder,
24 involuntary manslaughter, reckless homicide, predatory
25 criminal sexual assault of a child, ~~aggravated criminal sexual~~
26 ~~assault, aggravated kidnaping,~~ aggravated battery of a child,

1 home invasion, or any offense that makes the possession or use
2 of a dangerous weapon either an element of the base offense, an
3 aggravated or enhanced version of the offense, or a mandatory
4 sentencing factor that increases the sentencing range ~~armed~~
5 ~~robbery, or aggravated vehicular hijacking.~~

6 (d) This Section does not apply to violations of the Fish
7 and Aquatic Life Code or the Wildlife Code.

8 (Source: P.A. 91-404, eff. 1-1-00.)

9 (720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

10 Sec. 33A-3. Sentence.

11 (a) Violation of Section 33A-2(a) with a Category I weapon
12 is a Class X felony for which the defendant shall be sentenced
13 to a minimum term of imprisonment of 15 years.

14 (a-5) Violation of Section 33A-2(a) with a Category II
15 weapon is a Class X felony for which the defendant shall be
16 sentenced to a minimum term of imprisonment of 10 years.

17 (b) Violation of Section 33A-2(a) with a Category III
18 weapon is a Class 2 felony or the felony classification
19 provided for the same act while unarmed, whichever permits the
20 greater penalty. A second or subsequent violation of Section
21 33A-2(a) with a Category III weapon is a Class 1 felony or the
22 felony classification provided for the same act while unarmed,
23 whichever permits the greater penalty.

24 (b-5) Violation of Section 33A-2(b) with a firearm that is
25 a Category I or Category II weapon is a Class X felony for

1 which the defendant shall be sentenced to a minimum term of
2 imprisonment of 20 years.

3 (b-10) Violation of Section 33A-2(c) with a firearm that is
4 a Category I or Category II weapon is a Class X felony for
5 which the defendant shall be sentenced to a term of
6 imprisonment of not less than 25 years nor more than 40 years.

7 (c) Unless sentencing under Section 33B-1 is applicable,
8 any person who violates subsection (a) or (b) of Section 33A-2
9 with a firearm, when that person has been convicted in any
10 state or federal court of 3 or more of the following offenses:
11 treason, first degree murder, second degree murder, predatory
12 criminal sexual assault of a child, aggravated criminal sexual
13 assault, criminal sexual assault, robbery, burglary, arson,
14 kidnaping, aggravated battery resulting in great bodily harm or
15 permanent disability or disfigurement, a violation of the
16 Methamphetamine Control and Community Protection Act, or a
17 violation of Section 401(a) of the Illinois Controlled
18 Substances Act, when the third offense was committed after
19 conviction on the second, the second offense was committed
20 after conviction on the first, and the violation of Section
21 33A-2 was committed after conviction on the third, shall be
22 sentenced to a term of imprisonment of not less than 25 years
23 nor more than 50 years.

24 (c-5) Except as otherwise provided in paragraph (b-10) or
25 (c) of this Section, a person who violates Section 33A-2(a)
26 with a firearm that is a Category I weapon or Section 33A-2(b)

1 in any school, in any conveyance owned, leased, or contracted
2 by a school to transport students to or from school or a school
3 related activity, or on the real property comprising any school
4 or public park, and where the offense was related to the
5 activities of an organized gang, shall be sentenced to a term
6 of imprisonment of not less than the term set forth in
7 subsection (a) or (b-5) of this Section, whichever is
8 applicable, and not more than 30 years. For the purposes of
9 this subsection (c-5), "organized gang" has the meaning
10 ascribed to it in Section 10 of the Illinois Streetgang
11 Terrorism Omnibus Prevention Act.

12 (d) For armed violence based upon a predicate offense
13 listed in this subsection (d) the court shall enter the
14 sentence for armed violence to run consecutively to the
15 sentence imposed for the predicate offense. The offenses
16 covered by this provision are:

- 17 (i) solicitation of murder,
18 (ii) solicitation of murder for hire,
19 (iii) heinous battery,
20 (iv) aggravated battery of a senior citizen,
21 (v) (blank) ~~criminal sexual assault~~,
22 (vi) a violation of subsection (g) of Section 5 of the
23 Cannabis Control Act,
24 (vii) cannabis trafficking,
25 (viii) a violation of subsection (a) of Section 401 of
26 the Illinois Controlled Substances Act,

1 (ix) controlled substance trafficking involving a
2 Class X felony amount of controlled substance under Section
3 401 of the Illinois Controlled Substances Act,
4 (x) calculated criminal drug conspiracy,
5 (xi) streetgang criminal drug conspiracy, or
6 (xii) a violation of the Methamphetamine Control and
7 Community Protection Act.

8 (Source: P.A. 94-556, eff. 9-11-05.)

9 Section 5. The Code of Criminal Procedure of 1963 is
10 amended by changing Section 116-3 as follows:

11 (725 ILCS 5/116-3)

12 Sec. 116-3. Motion for fingerprint, Integrated Ballistic
13 Identification System, or forensic testing not available at
14 trial regarding actual innocence.

15 (a) A defendant may make a motion before the trial court
16 that entered the judgment of conviction in his or her case for
17 the performance of fingerprint, Integrated Ballistic
18 Identification System, or forensic DNA testing, including
19 comparison analysis of genetic marker groupings of the evidence
20 collected by criminal justice agencies pursuant to the alleged
21 offense, to those of the defendant, to those of other forensic
22 evidence, and to those maintained under subsection (f) of
23 Section 5-4-3 of the Unified Code of Corrections, on evidence
24 that was secured in relation to the trial which resulted in his

1 or her conviction, and:

2 (1) but which was not subject to the testing which is
3 now requested ~~because the technology for the testing was~~
4 ~~not available~~ at the time of trial; or. ~~Reasonable notice~~
5 ~~of the motion shall be served upon the State.~~

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

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

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

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

19 (c) The trial court shall allow the testing under
20 reasonable conditions designed to protect the State's
21 interests in the integrity of the evidence and the testing
22 process upon a determination that:

23 (1) the result of the testing has the scientific
24 potential to produce new, noncumulative evidence
25 materially relevant to the defendant's assertion of actual
26 innocence even though the results may not completely

1 exonerate the defendant;

2 (2) the testing requested employs a scientific method
3 generally accepted within the relevant scientific
4 community.

5 (d) If evidence previously tested pursuant to this Section
6 reveals an unknown fingerprint from the crime scene that does
7 not match the defendant or the victim, the order of the Court
8 shall direct the prosecuting authority to request the Illinois
9 State Police Bureau of Forensic Science to submit the unknown
10 fingerprint evidence into the FBI's Integrated Automated
11 Fingerprint Identification System (AIFIS) for identification.
12 (Source: P.A. 93-605, eff. 11-19-03.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.