

August 26, 2008

To the Honorable Members of the
Illinois Senate
95th General Assembly

Pursuant to Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return Senate Bill 2340, entitled "AN ACT concerning criminal law.", with the following specific recommendations for change:

on page 2, below line 18, by inserting the following:

“(b) The sheriff or seizing law enforcement agency must file a motion requesting destruction of bulk evidence before the trial judge in the courtroom where the criminal charge is pending. The sheriff or seizing law enforcement agency must give notice of the motion requesting destruction of bulk evidence to the prosecutor of the criminal charge and the defense attorney of record. The trial judge will conduct an evidentiary hearing in which all parties will be given the opportunity to present evidence and arguments relating to whether the evidence should be destroyed, whether such destruction will prejudice the prosecution of the criminal case, and whether the destruction of the evidence will prejudice the defense of the criminal charge. The court’s determination whether to grant the motion for destruction of bulk evidence must be based upon the totality of all of the circumstances of the case presented at the evidentiary hearing, the effect such destruction would have upon the defendant’s constitutional rights, and the prosecutor’s ability to proceed with the prosecution of the criminal charge.”; and

on page 2, line 19, by replacing “(b)” with “(c)”; and

on page 3, line 1, by replacing “(c)” with “(d)”.

With these changes, Senate Bill 2340 will have my approval. I respectfully request your concurrence.

Sincerely,

ROD R. BLAGOJEVICH
Governor