



Sen. Kwame Raoul

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LRB096 10778 RLC 27346 a

1 AMENDMENT TO HOUSE BILL 935

2 AMENDMENT NO. _____. Amend House Bill 935 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing 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

1 issue, he leaves the State or conceals himself; or ~~or~~.

2 (4) Destroys, alters, conceals, disguises, or otherwise
3 tampers with samples collected under Section 107-2.5 of the
4 Code of Criminal Procedure of 1963 or Section 5-4-3 of the
5 Unified Code of Corrections.

6 (b) ~~(d)~~ Sentence.

7 (1) Obstructing justice is a Class 4 felony, except as
8 provided in paragraph (2) of this subsection (b) ~~(d)~~.

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

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

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

17 (725 ILCS 5/107-2.5 new)

18 Sec. 107-2.5. DNA fingerprinting analysis.

19 (a) Every person to whom is issued a driver's license or
20 permit by the Secretary of State under Chapter 6 of the
21 Illinois Vehicle Code shall have a sample of his or her saliva
22 or tissue taken for DNA fingerprinting analysis, at the time of
23 issuance of the license or permit, for the purpose of
24 determining identity and for the purposes specified in this

1 Section and subsection (f) of Section 5-4-3 of the Unified Code
2 of Corrections. Any Secretary of State employee extracting DNA
3 samples under this Section shall be required to follow all
4 written rules and regulations for the collection, storage, and
5 processing of those samples promulgated by the Department of
6 State Police. The analysis shall be performed by the Department
7 of State Police or a specific agent approved by the Department
8 of State Police. The identification characteristics resulting
9 from the DNA analysis shall be stored and maintained by the
10 Department of State Police or the specific agent approved by
11 the Department. All results developed from collected DNA
12 samples shall be subject to any and all confidentiality
13 provisions of State and federal laws. The specific agent
14 approved by the Department of State Police to store and analyze
15 DNA samples shall be required to meet all Illinois State Police
16 laboratory accreditation requirements and shall properly
17 forward the results of the DNA analysis to the Department of
18 State Police.

19 (b) Subject to appropriation, the Department of State
20 Police shall implement this Section no later than the earlier
21 of the following: (1) the date on which the Department of State
22 Police informs law enforcement agencies that the Department is
23 ready to collect samples; or (2) January 1, 2012.

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

1 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

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

5 (a) Any person convicted of, found guilty under the
6 Juvenile Court Act of 1987 for, or who received a disposition
7 of court supervision for, a qualifying offense or attempt of a
8 qualifying offense, convicted or found guilty of any offense
9 classified as a felony under Illinois law, convicted or found
10 guilty of any offense requiring registration under the Sex
11 Offender Registration Act, found guilty or given supervision
12 for any offense classified as a felony under the Juvenile Court
13 Act of 1987, convicted or found guilty of, under the Juvenile
14 Court Act of 1987, any offense requiring registration under the
15 Sex Offender Registration Act, or institutionalized as a
16 sexually dangerous person under the Sexually Dangerous Persons
17 Act, or committed as a sexually violent person under the
18 Sexually Violent Persons Commitment Act shall, regardless of
19 the sentence or disposition imposed, be required to submit
20 specimens of blood, saliva, or tissue to the Illinois
21 Department of State Police in accordance with the provisions of
22 this Section, provided such person is:

23 (1) convicted of a qualifying offense or attempt of a
24 qualifying offense on or after July 1, 1990 and sentenced
25 to a term of imprisonment, periodic imprisonment, fine,

1 probation, conditional discharge or any other form of
2 sentence, or given a disposition of court supervision for
3 the offense;

4 (1.5) found guilty or given supervision under the
5 Juvenile Court Act of 1987 for a qualifying offense or
6 attempt of a qualifying offense on or after January 1,
7 1997;

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

10 (3) convicted of a qualifying offense or attempt of a
11 qualifying offense before July 1, 1990 and is presently
12 confined as a result of such conviction in any State
13 correctional facility or county jail or is presently
14 serving a sentence of probation, conditional discharge or
15 periodic imprisonment as a result of such conviction;

16 (3.5) convicted or found guilty of any offense
17 classified as a felony under Illinois law or found guilty
18 or given supervision for such an offense under the Juvenile
19 Court Act of 1987 on or after August 22, 2002;

20 (4) presently institutionalized as a sexually
21 dangerous person or presently institutionalized as a
22 person found guilty but mentally ill of a sexual offense or
23 attempt to commit a sexual offense;

24 (4.5) ordered committed as a sexually violent person on
25 or after the effective date of the Sexually Violent Persons
26 Commitment Act; ~~or~~

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

6 (6) on or after the operative date of Section 107-2.5
7 of the Code of Criminal Procedure of 1963.

8 Notwithstanding other provisions of this Section, any
9 person incarcerated in a facility of the Illinois Department of
10 Corrections on or after August 22, 2002 shall be required to
11 submit a specimen of blood, saliva, or tissue prior to his or
12 her final discharge or release on parole or mandatory
13 supervised release, as a condition of his or her parole or
14 mandatory supervised release.

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

1 death on the effective date of this amendatory Act of the 94th
2 General Assembly shall be required to provide a specimen of
3 blood, saliva, or tissue upon request at a collection site
4 designated by the Illinois Department of State Police.

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

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

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

24 (c-5) Any person required by paragraph (a)(5) to provide
25 specimens of blood, saliva, or tissue shall, where feasible, be
26 required to provide the specimens before being accepted for

1 conditioned residency in Illinois under the interstate compact
2 or agreement, but no later than 45 days after arrival in this
3 State.

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

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

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

1 into genetic marker groupings.

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

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

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

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

24 (f) The genetic marker grouping analysis information
25 obtained pursuant to this Act and the information obtained
26 under Section 107-2.5 of the Code of Criminal Procedure of 1963

1 shall be confidential and shall be released only to peace
2 officers of the United States, of other states or territories,
3 of the insular possessions of the United States, of foreign
4 countries duly authorized to receive the same, to all peace
5 officers of the State of Illinois and to all prosecutorial
6 agencies, and to defense counsel as provided by Section 116-5
7 of the Code of Criminal Procedure of 1963. The genetic marker
8 grouping analysis information obtained pursuant to this Act
9 shall be used only for (i) valid law enforcement identification
10 purposes and as required by the Federal Bureau of Investigation
11 for participation in the National DNA database, (ii) technology
12 validation purposes, (iii) a population statistics database,
13 (iv) quality assurance purposes if personally identifying
14 information is removed, (v) assisting in the defense of the
15 criminally accused pursuant to Section 116-5 of the Code of
16 Criminal Procedure of 1963, or (vi) identifying and assisting
17 in the prosecution of a person who is suspected of committing a
18 sexual assault as defined in Section 1a of the Sexual Assault
19 Survivors Emergency Treatment Act. Having established the
20 State DNA identification index, a match between casework
21 evidence DNA samples from a criminal investigation and DNA
22 samples from a State or federal DNA database of eligible
23 offenders may be used only to sustain probable cause for the
24 issuance of a warrant to obtain the DNA sample from an eligible
25 offender for confirmation. The identification, detention,
26 arrest, or conviction of a person based upon a database match

1 or database information is not invalidated if it is later
2 determined that the sample should not have been obtained or
3 placed in the database. Notwithstanding any other statutory
4 provision to the contrary, all information obtained under this
5 Section shall be maintained in a single State data base, which
6 may be uploaded into a national database, and which information
7 may be subject to expungement only as set forth in subsection
8 (f-1).

9 (f-1) Upon receipt of a certified copy of a final court
10 order for ~~notification of~~ a reversal of each ~~a~~ conviction based
11 on actual innocence, or of the granting of a pardon pursuant to
12 Section 12 of Article V of the Illinois Constitution, if that
13 pardon document specifically states that the reason for the
14 pardon is the actual innocence of an individual whose DNA
15 record has been stored in the State or national DNA
16 identification index in accordance with this Section by the
17 Illinois Department of State Police, the DNA record for that
18 conviction shall be expunged from the DNA identification index,
19 and the Department shall by rule prescribe procedures to ensure
20 that the record and any samples, analyses, or other documents
21 relating to such record, ~~whether~~ in the possession or control
22 of the Department or any law enforcement or police agency, or
23 any forensic DNA laboratory, including any duplicates or copies
24 thereof, are destroyed and a letter is sent to the court
25 verifying the expungement is completed.

26 (f-5) Any person who intentionally uses genetic marker

1 grouping analysis information, or any other information
2 derived from a DNA sample, beyond the authorized uses as
3 provided under this Section or under Section 107-2.5 of the
4 Code of Criminal Procedure of 1963, or any other Illinois law,
5 is guilty of a Class 3 ~~4~~ felony, and shall be subject to a fine
6 of not less than \$5,000.

7 (f-6) The Illinois Department of State Police may contract
8 with third parties for the purposes of implementing this
9 amendatory Act of the 93rd General Assembly. Any other party
10 contracting to carry out the functions of this Section shall be
11 subject to the same restrictions and requirements of this
12 Section insofar as applicable, as the Illinois Department of
13 State Police, and to any additional restrictions imposed by the
14 Illinois Department of State Police.

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

17 (1) any violation or inchoate violation of Section
18 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the
19 Criminal Code of 1961;

20 (1.1) any violation or inchoate violation of Section
21 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
22 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
23 persons are convicted on or after July 1, 2001;

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

26 (3) (blank);

1 (4) any inchoate violation of Section 9-3.1, 11-9.3,
2 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

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

5 (g-5) (Blank).

6 (h) The Illinois Department of State Police shall be the
7 State central repository for all genetic marker grouping
8 analysis information obtained pursuant to this Act. The
9 Illinois Department of State Police may promulgate rules for
10 the form and manner of the collection of blood, saliva, or
11 tissue samples and other procedures for the operation of this
12 Act. The provisions of the Administrative Review Law shall
13 apply to all actions taken under the rules so promulgated.

14 (i) (1) A person required to provide a blood, saliva, or
15 tissue specimen shall cooperate with the collection of the
16 specimen and any deliberate act by that person intended to
17 impede, delay or stop the collection of the blood, saliva,
18 or tissue specimen is a Class A misdemeanor.

19 (2) In the event that a person's DNA sample is not
20 adequate for any reason, the person shall provide another
21 DNA sample for analysis. Duly authorized law enforcement
22 and corrections personnel may employ reasonable force in
23 cases in which an individual refuses to provide a DNA
24 sample required under this Act.

25 (j) Any person sentenced and required by subsection (a) to
26 submit specimens of blood, saliva, or tissue to the Illinois

1 Department of State Police for analysis and categorization into
2 genetic marker grouping, in addition to any other disposition,
3 penalty, or fine imposed, shall pay an analysis fee of \$200. If
4 the analysis fee is not paid at the time of sentencing, the
5 court shall establish a fee schedule by which the entire amount
6 of the analysis fee shall be paid in full, such schedule not to
7 exceed 24 months from the time of conviction. The inability to
8 pay this analysis fee shall not be the sole ground to
9 incarcerate the person.

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

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

14 (2) All fees shall be collected by the clerk of the
15 court and forwarded to the State Offender DNA
16 Identification System Fund for deposit. The clerk of the
17 circuit court may retain the amount of \$10 from each
18 collected analysis fee to offset administrative costs
19 incurred in carrying out the clerk's responsibilities
20 under this Section.

21 (3) Fees deposited into the State Offender DNA
22 Identification System Fund shall be used by Illinois State
23 Police crime laboratories as designated by the Director of
24 State Police. These funds shall be in addition to any
25 allocations made pursuant to existing laws and shall be
26 designated for the exclusive use of State crime

1 laboratories. These uses may include, but are not limited
2 to, the following:

3 (A) Costs incurred in providing analysis and
4 genetic marker categorization as required by
5 subsection (d).

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

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

10 (D) Costs incurred in continuing research and
11 development of new techniques for analysis and genetic
12 marker categorization.

13 (E) Costs incurred in continuing education,
14 training, and professional development of forensic
15 scientists regularly employed by these laboratories.

16 (l) The failure of a person to provide a specimen, or of
17 any person or agency to collect a specimen, within the 45 day
18 period shall in no way alter the obligation of the person to
19 submit such specimen, or the authority of the Illinois
20 Department of State Police or persons designated by the
21 Department to collect the specimen, or the authority of the
22 Illinois Department of State Police to accept, analyze and
23 maintain the specimen or to maintain or upload results of
24 genetic marker grouping analysis information into a State or
25 national database.

26 (m) If any provision of Public Act 93-216 ~~this amendatory~~

1 ~~Act of the 93rd General Assembly~~ is held unconstitutional or
2 otherwise invalid, the remainder of Public Act 93-216 ~~this~~
3 ~~amendatory Act of the 93rd General Assembly~~ is not affected.

4 (n) If any provision of this amendatory Act of the 96th
5 General Assembly is held unconstitutional or otherwise
6 invalid, the remainder of this amendatory Act of the 96th
7 General Assembly is not affected.

8 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
9 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
10 1-1-07.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."