

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

6 (725 ILCS 5/116-3)

7 Sec. 116-3. Motion for fingerprint, Integrated Ballistic
8 Identification System, or forensic testing not available at
9 trial or guilty plea regarding actual innocence.

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

21 (1) was not subject to the testing which is now
22 requested at the time of trial; or

23 (2) although previously subjected to testing, can be

1 subjected to additional testing utilizing a method that was
2 not scientifically available at the time of trial that
3 provides a reasonable likelihood of more probative
4 results. Reasonable notice of the motion shall be served
5 upon the State.

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

7 (1) identity was the issue in the trial or guilty plea
8 which resulted in his or her conviction; and

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

13 (c) The trial court shall allow the testing under
14 reasonable conditions designed to protect the State's
15 interests in the integrity of the evidence and the testing
16 process upon a determination that:

17 (1) the result of the testing has the scientific
18 potential to produce new, noncumulative evidence (i)
19 materially relevant to the defendant's assertion of actual
20 innocence when the defendant's conviction was the result of
21 a trial, even though the results may not completely
22 exonerate the defendant, or (ii) that would raise a
23 reasonable probability that the defendant would have been
24 acquitted if the results of the evidence to be tested had
25 been available prior to the defendant's guilty plea and the
26 petitioner had proceeded to trial instead of pleading

1 guilty, even though the results may not completely
2 exonerate the defendant; and

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

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

13 (e) In the court's order to allow testing, the court shall
14 order the investigating authority to prepare an inventory of
15 the evidence related to the case and issue a copy of the
16 inventory to the prosecution, the petitioner, and the court.

17 (f) When a motion is filed to vacate based on favorable
18 post-conviction testing results, the State may, upon request,
19 reactivate victim services for the victim of the crime during
20 the pendency of the proceedings, and, as determined by the
21 court after consultation with the victim or victim advocate, or
22 both, following final adjudication of the case.

23 (Source: P.A. 95-688, eff. 10-23-07.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.