

1 AN ACT concerning evidence.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

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 person obstructs justice when, with intent to prevent  
9 the apprehension or obstruct the prosecution or defense of  
10 any person, he knowingly commits any of the following acts:

11 (a) Destroys, alters, conceals or disguises physical  
12 evidence, plants false evidence, furnishes false information;  
13 or

14 (a-5) Violates the provisions of Section 116-4 of the  
15 Code of Criminal Procedure of 1963; or

16 (b) Induces a witness having knowledge material to the  
17 subject at issue to leave the State or conceal himself; or

18 (c) Possessing knowledge material to the subject at  
19 issue, he leaves the State or conceals himself.

20 (d) Sentence.

21 (1) Obstructing justice is a Class 4 felony, except  
22 as provided in paragraph (2) of this subsection (d).

23 (2) Obstructing justice in furtherance of  
24 streetgang related or gang-related activity, as defined  
25 in Section 10 of the Illinois Streetgang Terrorism  
26 Omnibus Prevention Act, is a Class 3 felony.

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

28 (720 ILCS 5/33-5 rep.)

29 Section 10. The Criminal Code of 1961 is amended by  
30 repealing Section 33-5.

1 Section 15. The Code of Criminal Procedure of 1963 is  
2 amended by changing Section 116-4 as follows:

3 (725 ILCS 5/116-4)

4 Sec. 116-4. Preservation of evidence Chain-of-custody.

5 (a) In a prosecution for any felony, as defined in  
6 Section 2-7 a violation of--Section--12-13,--12-14,--12-14.1,  
7 12-15,--or--12-16 of the Criminal Code of 1961, unless  
8 otherwise provided by law or court order, a or--in--a  
9 prosecution for an offense defined in Article 9 of that Code,  
10 the law enforcement agency, licensed attorney, or any person  
11 acting as an agent on behalf of a law enforcement agency, and  
12 the State's Attorney's Office shall preserve,--subject--to--a  
13 continuous--chain--of--custody, any physical evidence in the  
14 possession of the law enforcement agency, attorney, or agent  
15 that has been inventoried secured in relation to a trial,  
16 with and sufficient official documentation to locate that  
17 evidence.

18 (b) After a trial resulting in a judgment of conviction,  
19 (1) the court shall enter an order requiring all items of  
20 physical the evidence admitted at trial to shall--either be  
21 impounded with the Clerk of the Circuit Court, (2) either  
22 party may petition the court for the entry of an impounding  
23 order directing the Clerk of the Circuit Court to impound any  
24 evidence inventoried by or in the possession of any law  
25 enforcement agency that was not admitted into evidence, and  
26 (3) either party may petition the court for the entry of an  
27 impounding order directing the Clerk of the Circuit Court to  
28 impound any evidence offered by the defendant and not  
29 admitted into evidence. or shall be securely retained by a  
30 law enforcement agency. Retention shall be:

31 (1)--Permanent--following--any--conviction--for--an  
32 offense--defined--in--Article--9--of--the--Criminal--Code--of  
33 1961.

1           (2) For 25 years following any conviction for a  
 2 violation of Section 12-13, 12-14, 12-14.1, 12-15, or  
 3 12-16 of the Criminal Code of 1961.

4           (3) For 7 years following any conviction for any  
 5 other felony for which the defendant's genetic profile  
 6 may be taken by a law enforcement agency and submitted  
 7 for comparison in a forensic DNA database for unsolved  
 8 offenses.

9           **(b-1) After a trial resulting in acquittal, after the**  
 10 **entry of a plea of guilty, or after the dismissal of charges**  
 11 **for whatever reason, either party may petition the court for**  
 12 **the entry of an order directing the Clerk of the Circuit**  
 13 **Court to impound evidence (1) inventoried or in the**  
 14 **possession of any law enforcement agency, or (2) in the**  
 15 **possession of the defendant's attorney.**

16           (c) The court may order the disposal or disposition of  
 17 any items of physical evidence otherwise subject to an  
 18 impounding order pursuant to subsections (b) or (b-1) After a  
 19 judgment of conviction is entered, the State's Attorney or  
 20 law enforcement agency having custody of evidence described  
 21 in subsection (a) may petition the court with notice to the  
 22 defendant for entry of an order allowing it to dispose of  
 23 evidence if, after a hearing, the court determines by a  
 24 preponderance of the evidence that:

25           (1) it has no significant value for forensic  
 26 science analysis and must be returned to its rightful  
 27 owner; or

28           (2) it has no significant value for forensic  
 29 science analysis and is of a size, bulk, or physical  
 30 character that it not usually retained by the law  
 31 enforcement agency and cannot practicably be retained by  
 32 the Clerk of the Circuit Court law enforcement agency.

33           **(c-1) A party must move for the entry of an impounding**  
 34 **order as described in subsection (b) within 30 days after a**

1 judgement of conviction is entered. A party must move for  
2 the entry of an impounding order as described in subsection  
3 (b-1) within 30 days of the entry of the final order in that  
4 case. Any party may move for a reasonable extension of the  
5 time provided by this subsection if the motion for extension  
6 is filed within the 30-day period.

7 (c-2) Unless otherwise ordered by the court, all items  
8 of physical evidence impounded pursuant to this Section shall  
9 be securely retained by the Clerk of the Circuit Court until  
10 the completion of the sentence imposed for that conviction by  
11 the court or the completion of all appeals, whichever is  
12 later.

13 (d) (Blank). The court may order the disposition of the  
14 evidence if the defendant is allowed the opportunity to take  
15 reasonable measures to remove or preserve portions of the  
16 evidence in question for future testing.

17 (e) For purposes of this Section, "law enforcement  
18 agency" includes any law enforcement agency, as defined by  
19 has the meaning ascribed to it in clause (a)(4) of Section  
20 107-4 of this Code, any prosecuting authority, or any agency  
21 of the State of Illinois having law enforcement powers and  
22 duties.

23 (Source: P.A. 91-871, eff. 1-1-01.)