

1 AN ACT in relation to criminal law.

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

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

6 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

7 Sec. 5-4-3. Persons convicted of, or found delinquent  
8 for, certain ~~qualifying~~ offenses or institutionalized as  
9 sexually dangerous; ~~blood~~ specimens; genetic marker groups.

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

24 (1) convicted of a qualifying offense or attempt of  
25 a qualifying offense on or after the effective date of  
26 this amendatory Act of 1989, and sentenced to a term of  
27 imprisonment, periodic imprisonment, fine, probation,  
28 conditional discharge or any other form of sentence, or  
29 given a disposition of court supervision for the offense,  
30 or

31 (1.5) found guilty or given supervision under the

1 Juvenile Court Act of 1987 for a qualifying offense or  
2 attempt of a qualifying offense on or after the effective  
3 date of this amendatory Act of 1996, or

4 (2) ordered institutionalized as a sexually  
5 dangerous person on or after the effective date of this  
6 amendatory Act of 1989, or

7 (3) convicted of a qualifying offense or attempt of  
8 a qualifying offense before the effective date of this  
9 amendatory Act of 1989 and is presently confined as a  
10 result of such conviction in any State correctional  
11 facility or county jail or is presently serving a  
12 sentence of probation, conditional discharge or periodic  
13 imprisonment as a result of such conviction, or

14 (3.5) convicted or found guilty of any offense  
15 classified as a felony under Illinois law or found guilty  
16 or given supervision for such an offense under the  
17 Juvenile Court Act of 1987, or

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

22 (4.5) ordered committed as a sexually violent  
23 person on or after the effective date of the Sexually  
24 Violent Persons Commitment Act; or

25 (5) seeking transfer to or residency in Illinois  
26 under Sections 3-3-11 through 3-3-11.5 of the Unified  
27 Code of Corrections (Interstate Compact for the  
28 Supervision of Parolees and Probationers) or the  
29 Interstate Agreements on Sexually Dangerous Persons Act.

30 Notwithstanding other provisions of this Section, any  
31 person incarcerated in a facility of the Illinois Department  
32 of Corrections on or after the effective date of this  
33 amendatory Act of the 92nd General Assembly shall be required  
34 to submit a specimen of blood, saliva, or tissue prior to his

1 or her release on parole or mandatory supervised release, as  
2 a condition of his or her parole or mandatory supervised  
3 release.

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

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

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

25 (c-5) Any person required by paragraph (a)(5) to provide  
26 specimens of blood, saliva, or tissue shall, where feasible,  
27 be required to provide the specimens before being accepted  
28 for conditioned residency in Illinois under the interstate  
29 compact or agreement, but no later than 45 days after arrival  
30 in this State.

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

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

11 (d-1) The Illinois Department of State Police shall  
12 provide all equipment and instructions necessary for the  
13 collection of saliva samples. The collection of saliva  
14 samples shall be performed in a medically approved manner.  
15 Only a person trained in the instructions promulgated by the  
16 Illinois State Police on collecting saliva may collect saliva  
17 for the purposes of this Section. The samples shall  
18 thereafter be forwarded to the Illinois Department of State  
19 Police, Division of Forensic Services, for analysis and  
20 categorizing into genetic marker groupings.

21 (d-2) The Illinois Department of State Police shall  
22 provide all equipment and instructions necessary for the  
23 collection of tissue samples. The collection of tissue  
24 samples shall be performed in a medically approved manner.  
25 Only a person trained in the instructions promulgated by the  
26 Illinois State Police on collecting tissue may collect tissue  
27 for the purposes of this Section. The samples shall  
28 thereafter be forwarded to the Illinois Department of State  
29 Police, Division of Forensic Services, for analysis and  
30 categorizing into genetic marker groupings.

31 (e) The genetic marker groupings shall be maintained by  
32 the Illinois Department of State Police, Division of Forensic  
33 Services.

34 (f) The genetic marker grouping analysis information

1 obtained pursuant to this Act shall be confidential and shall  
2 be released only to peace officers of the United States, of  
3 other states or territories, of the insular possessions of  
4 the United States, of foreign countries duly authorized to  
5 receive the same, to all peace officers of the State of  
6 Illinois and to all prosecutorial agencies. Notwithstanding  
7 any other statutory provision to the contrary, all  
8 information obtained under this Section shall be maintained  
9 in a single State data base, which may be uploaded into a  
10 national database, and may not be subject to expungement.

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

13 (1) Any violation or inchoate violation of Section  
14 11-6, 11-9.1, 11-11, 11-15.1, 11-17.1, 11-18.1, 11-19.1,  
15 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, or  
16 12-33 of the Criminal Code of 1961, or

17 (1.1) Any violation or inchoate violation of  
18 Section 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2,  
19 18-3, 18-4, 19-1, or 19-2 of the Criminal Code of 1961  
20 for which persons are convicted on or after July 1, 2001,  
21 or

22 (2) Any former statute of this State which defined  
23 a felony sexual offense, or

24 (3) Any violation of paragraph (10) of subsection  
25 (b) of Section 10-5 of the Criminal Code of 1961 when the  
26 sentencing court, upon a motion by the State's Attorney  
27 or Attorney General, makes a finding that the child  
28 luring involved an intent to commit sexual penetration or  
29 sexual conduct as defined in Section 12-12 of the  
30 Criminal Code of 1961, or

31 (4) Any violation or inchoate violation of Section  
32 9-3.1, 11-9.3, 12-3.3, 12-4.2, 12-4.3, 12-7.3, 12-7.4,  
33 18-5, 19-3, 20-1.1, or 20.5-5 of the Criminal Code of  
34 1961.

1 (g-5) The Department of State Police is not required to  
2 provide equipment to collect or to accept or process blood,  
3 saliva, or tissue specimens from individuals convicted of any  
4 offense listed in paragraph (1.1) or (4) of subsection (g),  
5 until acquisition of the resources necessary to process such  
6 blood, saliva, or tissue specimens, or in the case of  
7 paragraph (1.1) of subsection (g) until July 1, 2003,  
8 whichever is earlier.

9 Upon acquisition of necessary resources, including an  
10 appropriation for the purpose of implementing this amendatory  
11 Act of the 91st General Assembly, but in the case of  
12 paragraph (1.1) of subsection (g) no later than July 1, 2003,  
13 the Department of State Police shall notify the Department of  
14 Corrections, the Administrative Office of the Illinois  
15 Courts, and any other entity deemed appropriate by the  
16 Department of State Police, to begin blood specimen  
17 collection from individuals convicted of offenses enumerated  
18 in paragraphs (1.1) and (4) of subsection (g) that the  
19 Department is prepared to provide collection equipment and  
20 receive and process blood, saliva, or tissue specimens from  
21 individuals convicted of offenses enumerated in paragraph  
22 (1.1) of subsection (g).

23 Until the Department of State Police provides  
24 notification, designated collection agencies are not required  
25 to collect blood specimen from individuals convicted of  
26 offenses enumerated in paragraphs (1.1) and (4) of subsection  
27 (g).

28 (h) The Illinois Department of State Police shall be the  
29 State central repository for all genetic marker grouping  
30 analysis information obtained pursuant to this Act. The  
31 Illinois Department of State Police may promulgate rules for  
32 the form and manner of the collection of blood, saliva, or  
33 tissue samples and other procedures for the operation of this  
34 Act. The provisions of the Administrative Review Law shall

1 apply to all actions taken under the rules so promulgated.

2 (i) A person required to provide a blood, saliva, or  
3 tissue specimen shall cooperate with the collection of the  
4 specimen and any deliberate act by that person intended to  
5 impede, delay or stop the collection of the blood, saliva, or  
6 tissue specimen is a Class A misdemeanor.

7 (j) Any person required by subsection (a) to submit  
8 specimens of blood, saliva, or tissue to the Illinois  
9 Department of State Police for analysis and categorization  
10 into genetic marker grouping, in addition to any other  
11 disposition, penalty, or fine imposed, shall pay an analysis  
12 fee of \$500. Upon verified petition of the person, the court  
13 may suspend payment of all or part of the fee if it finds  
14 that the person does not have the ability to pay the fee.

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

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

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

27 (3) Fees deposited into the State Offender DNA  
28 Identification System Fund shall be used by Illinois  
29 State Police crime laboratories as designated by the  
30 Director of State Police. These funds shall be in  
31 addition to any allocations made pursuant to existing  
32 laws and shall be designated for the exclusive use of  
33 State crime laboratories. These uses may include, but  
34 are not limited to, the following:

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

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

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

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

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

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

25       (Source: P.A. 91-528, eff. 1-1-00; 92-16, eff. 6-28-01;  
26 92-40, eff. 6-29-01.)

27       Section 99. Effective date. This Act takes effect upon  
28 becoming law.