

AN ACT concerning criminal law.

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

Section 2. The Illinois Criminal Justice Information Act is amended by adding Section 7.6 as follows:

(20 ILCS 3930/7.6 new)

Sec. 7.6. Capital Crimes Database.

(a) Subject to appropriation, a Capital Crimes Database shall be created within the Illinois Criminal Justice Information Authority (ICJIA).

(b) The ICJIA shall collect and retain in the Capital Crimes Database all information on the prosecution, pendency, and disposition of capital and capital eligible cases in Illinois. The Capital Crimes Database shall serve as a repository for all of the foregoing collected information.

(c) The ICJIA shall develop administrative rules to provide for the coordination and collection of information in the Capital Crimes Database.

(d) Agencies required to provide information on capital cases to the ICJIA, as the ICJIA may request, for the Capital Crimes Database shall include, but not be limited to:

(1) Office of the Attorney General.

(2) Illinois Department of Corrections.

(3) Illinois State Police.

(4) All county State's Attorneys.

(5) All county public defenders.

(6) Office of the State's Attorneys Appellate
Prosecutor.

(7) Office of the State Appellate Defender.

(e) Agencies requested to provide information on capital
cases to the ICJIA for the Capital Crimes Database shall
include, but not be limited to:

(1) Administrative Office of Illinois Courts.

(2) All county circuit court clerks.

(f) The ICJIA shall develop procedures and protocols for
the submission of information relating to capital and capital
eligible cases to the Database in conjunction with the agencies
submitting information.

Section 3. The Illinois Police Training Act is amended by
changing Section 10.3 as follows:

(50 ILCS 705/10.3)

Sec. 10.3. Training of police officers to conduct
electronic interrogations.

(a) From appropriations made to it for that purpose, the
Board shall initiate, administer, and conduct training
programs for permanent police officers, part-time police
officers, and recruits on the methods and technical aspects of

conducting electronic recordings of interrogations.

(b) Subject to appropriation, the Board shall develop technical guidelines for the mandated recording of custodial interrogations in all homicide investigations by law enforcement agencies. These guidelines shall be developed in conjunction with law enforcement agencies and technology accreditation groups to provide guidance for law enforcement agencies in implementing the mandated recording of custodial interrogations in all homicide investigations.

(Source: P.A. 93-206, eff. 7-18-03; 93-517, eff. 8-6-03.)

Section 4. The Criminal Code of 1961 is amended by changing Sections 33A-2 and 33A-3 as follows:

(720 ILCS 5/33A-2) (from Ch. 38, par. 33A-2)

Sec. 33A-2. Armed violence-Elements of the offense.

(a) A person commits armed violence when, while armed with a dangerous weapon, he commits any felony defined by Illinois Law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, ~~aggravated criminal sexual assault, aggravated kidnapping,~~ aggravated battery of a child, home invasion, or any offense that makes the possession or use of a dangerous weapon either an element of the base offense, an aggravated or enhanced version of the offense, or a mandatory

sentencing factor that increases the sentencing range ~~armed robbery, or aggravated vehicular hijacking.~~

(b) A person commits armed violence when he or she personally discharges a firearm that is a Category I or Category II weapon while committing any felony defined by Illinois law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, ~~aggravated criminal sexual assault, aggravated kidnaping,~~ aggravated battery of a child, home invasion, or any offense that makes the possession or use of a dangerous weapon either an element of the base offense, an aggravated or enhanced version of the offense, or a mandatory sentencing factor that increases the sentencing range ~~armed robbery, or aggravated vehicular hijacking.~~

(c) A person commits armed violence when he or she personally discharges a firearm that is a Category I or Category II weapon that proximately causes great bodily harm, permanent disability, or permanent disfigurement or death to another person while committing any felony defined by Illinois law, except first degree murder, attempted first degree murder, intentional homicide of an unborn child, second degree murder, involuntary manslaughter, reckless homicide, predatory criminal sexual assault of a child, ~~aggravated criminal sexual assault, aggravated kidnaping,~~ aggravated battery of a child,

home invasion, or any offense that makes the possession or use of a dangerous weapon either an element of the base offense, an aggravated or enhanced version of the offense, or a mandatory sentencing factor that increases the sentencing range ~~armed robbery, or aggravated vehicular hijacking.~~

(d) This Section does not apply to violations of the Fish and Aquatic Life Code or the Wildlife Code.

(Source: P.A. 91-404, eff. 1-1-00.)

(720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

Sec. 33A-3. Sentence.

(a) Violation of Section 33A-2(a) with a Category I weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 15 years.

(a-5) Violation of Section 33A-2(a) with a Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Violation of Section 33A-2(a) with a Category III weapon is a Class 2 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty. A second or subsequent violation of Section 33A-2(a) with a Category III weapon is a Class 1 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty.

(b-5) Violation of Section 33A-2(b) with a firearm that is a Category I or Category II weapon is a Class X felony for

which the defendant shall be sentenced to a minimum term of imprisonment of 20 years.

(b-10) Violation of Section 33A-2(c) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a term of imprisonment of not less than 25 years nor more than 40 years.

(c) Unless sentencing under Section 33B-1 is applicable, any person who violates subsection (a) or (b) of Section 33A-2 with a firearm, when that person has been convicted in any state or federal court of 3 or more of the following offenses: treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, arson, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, a violation of the Methamphetamine Control and Community Protection Act, or a violation of Section 401(a) of the Illinois Controlled Substances Act, when the third offense was committed after conviction on the second, the second offense was committed after conviction on the first, and the violation of Section 33A-2 was committed after conviction on the third, shall be sentenced to a term of imprisonment of not less than 25 years nor more than 50 years.

(c-5) Except as otherwise provided in paragraph (b-10) or (c) of this Section, a person who violates Section 33A-2(a) with a firearm that is a Category I weapon or Section 33A-2(b)

in any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or on the real property comprising any school or public park, and where the offense was related to the activities of an organized gang, shall be sentenced to a term of imprisonment of not less than the term set forth in subsection (a) or (b-5) of this Section, whichever is applicable, and not more than 30 years. For the purposes of this subsection (c-5), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(d) For armed violence based upon a predicate offense listed in this subsection (d) the court shall enter the sentence for armed violence to run consecutively to the sentence imposed for the predicate offense. The offenses covered by this provision are:

- (i) solicitation of murder,
- (ii) solicitation of murder for hire,
- (iii) heinous battery,
- (iv) aggravated battery of a senior citizen,
- (v) (blank) ~~criminal sexual assault~~,
- (vi) a violation of subsection (g) of Section 5 of the Cannabis Control Act,
- (vii) cannabis trafficking,
- (viii) a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act,

(ix) controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act,

(x) calculated criminal drug conspiracy,

(xi) streetgang criminal drug conspiracy, or

(xii) a violation of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 94-556, eff. 9-11-05.)

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

(725 ILCS 5/116-3)

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

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

or her conviction, and:

(1) ~~but which~~ was not subject to the testing which is now requested ~~because the technology for the testing was not available~~ at the time of trial; or. Reasonable notice of the motion shall be served upon the State.

(2) although previously subjected to testing, can be subjected to additional testing utilizing a method that was not scientifically available at the time of trial that provides a reasonable likelihood of more probative results. Reasonable notice of the motion shall be served upon the State.

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

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

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

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

(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence even though the results may not completely

exonerate the defendant;

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

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

(Source: P.A. 93-605, eff. 11-19-03.)

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