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Effective: November 19, 2003West's Smith-Hurd Illinois Compiled Statutes Annotated *Currentness*

Chapter 725. Criminal Procedure

Act 5. Code of Criminal Procedure of 1963 (Refs & Annos)

[Ⓝ] Title VI. Proceedings at Trial [Ⓝ] Article 116. Post-Trial Motions →→ **5/116-5. Motion for DNA database search (genetic marker groupings comparison analysis)**

§ 116-5. Motion for DNA database search (genetic marker groupings comparison analysis).

(a) Upon motion by a defendant charged with any offense where DNA evidence may be material to the defense investigation or relevant at trial, a court may order a DNA database search by the Department of State Police. Such analysis may include comparing:

(1) the genetic profile from forensic evidence that was secured in relation to the trial against the genetic profile of the defendant,

(2) the genetic profile of items of forensic evidence secured in relation to trial to the genetic profile of other forensic evidence secured in relation to trial, or

(3) the genetic profiles referred to in subdivisions (1) and (2) against:

(i) genetic profiles of offenders maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections, or

(ii) genetic profiles, including but not limited to, profiles from unsolved crimes maintained in state or local DNA databases by law enforcement agencies.

(b) If appropriate federal criteria are met, the court may order the Department of State Police to request the National DNA index system to search its database of genetic profiles.

(c) If requested by the defense, a defense representative shall be allowed to view any genetic marker grouping analysis conducted by the Department of State Police. The defense shall be provided with copies of all documentation, correspondence, including digital correspondence, notes, memoranda, and reports generated in rela-

tion to the analysis.

(d) Reasonable notice of the motion shall be served upon the State.

CREDIT(S)

Laws 1963, p. 2836, § 116-5, added by P.A. 93-605, § 15, eff. Nov. 19, 2003.

HISTORICAL AND STATUTORY NOTES

P.A. 93-605 was the subject of an Amendatory Veto on July 29, 2003. The Amendatory Veto was overridden, filed without signature of the governor, and became effective on November 19, 2003.

LAW REVIEW AND JOURNAL COMMENTARIES

Capital punishment reform--What's been done and what remains to be done. Thomas P. Sullivan, 92-April Ill.B.J. 200 (2004).

Capital punishment reform in Illinois--A model for the nation. John Cullerton, Kirk Dillard and Peter G. Baroni, 16 DCBA Brief 6 (2004).

Evidence destroyed, innocence lost: The preservation of biological evidence under innocence protection statutes. Cynthia E. Jones, 42-FALL Am.Crim.L.Rev. 1239 (2005).

"Genetic surveillance"--The *bogeyman* response to familial DNA investigations. Jules Epstein, 1 J.L. Tech. & Pol'y 141 (2009).

Searching for a needle in a haystack: The constitutionality of police DNA dragnets. Sepideh Esmaili, 82 Chi.-Kent L.Rev. 495 (2007).

LIBRARY REFERENCES

Criminal Law  627.6(6).

Westlaw Topic No. 110.

C.J.S. Criminal Law §§ 486, 495, 502 to 507, 1210.

RESEARCH REFERENCES

Encyclopedias

Illinois Law and Practice Criminal Law § 601, Privileged Information Generally.

Illinois Law and Practice Homicide § 85, Post-Trial Motions--Motion for Fingerprint, Dna, or Forensic Testing or Searching.